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IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

THE PEOPLE OF THE STATE OF MICHIGAN

.vs

Case No. 03-001609

MICHON DESMOND HOUSTON,

Defendant.

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JURY TRIAL

PROCEEDINGS HAD in the above-entitled cause before
the HONORABLE VERA MASSEY JONES, Circuit Judge, Detroit,
Michigan on Thursday, April 3rd, 2003.

APPEARANCES:

For the People: RODNEY P. HASSINGER (P-40573)
Wayne County Assistant Prosecutor
1441 St. Antoine Street
Detroit, MI 48226
(313) 224-5777

For the Defendant: DAVID E. LANKFORD (P-43536)
645 Griswold Street, Suite 2350
Detroit, MI 48226
(313) 965-4834

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FIRST DISTRICT

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Detroit, Michigan

Thursday, April 3, 2003

Morning session

THE COURT: Okay, gentlemen, we got jurors

who are inside. I want to know what we're going to do?

MR. LANKFORD: Mr. Lankford on behalf of

Mr. Michon Houston, good morning.

MR. HASSINGER: Rod Hassinger on behalf of

the People, good morning, Your Honor.

Judge, we have present today --

THE COURT: I know you got your witnesses.

Are we getting ready to start?

MR. HASSINGER: Yes. Mr. Lankford needed

to address the Court on one issue.

THE COURT: Can we do that after we begin

because I tell the jurors they're supposed to be

here at 9:00 o'clock. I do not like keeping them

waiting. What I would like to do is bring them

out. I want you to have all your witnesses come

so we can introduce them to the jurors.

I'm going to then swear them, and then I

want you to be ready to make opening statements,

1 statements?

2 MR. HASSINGER: I don't need to address
3 you before opening statements.

4 THE COURT: Do you need to address me
5 before opening statement?

6 MR. LANKFORD: I feel I do briefly, yes,
7 Your Honor.

8 THE COURT: Okay, that will be fine. Then
9 we'll do opening for the People, and then we'll
10 send them back in. Okay?

11 MR. HASSINGER: One request, Judge. One
12 of the witnesses is upstairs on the second floor.

13 THE COURT: Both of them are still in
14 custody, right?

15 MR. HASSINGER: We have detainers for both
16 the witnesses.

17 THE COURT: Yes, that's right. Okay. We
18 got to get lawyers for them. Mr. Cook, you got a
19 client.

20 MR. HASSINGER: I was just wondering if we
21 could bring the witnesses down for when the jury
22 comes out.

23 THE COURT: That's what I just said. I
24 want all of the witnesses here so they can be
25 introduced to the jurors. Okay.

1 MR. LANKFORD: We move to sequester.

2 THE COURT: I will order sequestration
3 after the witnesses have been introduced to the
4 jurors.

5 MR. HASSINGER: Thank you, Judge.

6 THE COURT: Okay. You may bring the jurors
7 in.

8 THE BAILIFF: All rise.

9 (Jury enters courtroom at 9:21 a.m.)

10 THE COURT: Do I have your stipulation
11 that all of our jurors are here and in their proper
12 places?

13 MR. HASSINGER: The People so stipulate.

14 MR. LANKFORD: Defense too, Your Honor.

15 THE COURT: Ladies and gentlemen, I want
16 to thank you all for being here so promptly. I
17 apologize for keeping you waiting, but I had
18 ordered the People to get as many of their
19 witnesses here at 9:00 o'clock today before you
20 were here so they could be introduced to you, and
21 it took a few minutes for some of them to get
22 notice. You took a few minutes to get here. At
23 this time I ask to please introduce the witnesses
24 who may be called to testify. When your name is
25 called, ask them to stand.

1 MR. HASSINGER: Thank you, Your Honor.

2 First, I'd like to introduce the officer in charge
3 from Detroit Homicide, Sergeant Danny Marshall.
4 Sergeant Marshall will be assisting me in Mr.
5 Michon Houston's trial. He's the officer in
6 charge.

7 Mr. Javon Johnson, would you please stand
8 up, sir. Thank you.

9 Mr. Lavero Crooks would you please stand
10 up, sir.

11 Judge, in addition we have Officer Fred
12 McIntyre. We have Officer Charles Adams. Officer
13 Olivia Moss. We have our evidence technician
14 Michael Carpenter. We also have Officer
15 Bastianelli, and then we have Officer Williams.

16 Judge, those are the witnesses we have
17 present here this morning.

18 THE COURT: All right. At this time the
19 Court will order sequestration of all witnesses,
20 both those for the prosecution and defense. That
21 means they may not be in the courtroom unless
22 they're on the witness stand testifying. Please
23 see to it.

24 MR. HASSINGER: Judge, may there be an
25 exception for the officer in charge in this case?

1 THE COURT: Except for the officer in
2 charge of the case.

3 MR. HASSINGER: Thank you, Your Honor.

4 THE COURT: Okay.

5 MR. HASSINGER: All of the witnesses in
6 the case, we'll have them step out in the hall.

7 THE COURT: Ladies and gentlemen, did any
8 of you recognize any of the persons who was just
9 introduced as persons that you might know?

10 THE JURY: No.

11 THE COURT: All right, swear the jury
12 panel, please.

13 THE CLERK: Could you all please stand and
14 raise your right hand. Do you solemnly swear or
15 affirm to truthfully deliberate this case according
16 to the evidence and the laws of this state?

17 THE JURY: Yes.

18 THE CLERK: Thank you.

19 THE COURT: Are the People ready to
20 proceed with opening?

21 MR. HASSINGER: Yes, Judge, could we approach
22 briefly?

23 THE COURT: Sure.

24 (Discussion at bench outside the hearing
25 of the jury)

1 (Back on the record)

2 THE COURT: You may, counsel, proceed.

3 MR. HASSINGER: Thank you, Your Honor.

4 Good morning, ladies and gentlemen of the
5 jury. Before I get into my actual opening
6 statement I want to thank all of you for being down
7 here today. Okay. I know you all have other
8 places you'd rather be than sitting down here on
9 jury duty.

10 It takes something out of your life to be
11 down here and I want you to know that I appreciate
12 it. I appreciate the fact that you're going to
13 take the time this case takes to put in the effort
14 of being a juror on this case and I appreciate
15 that.

16 Again, my name is Rod Hassinger and I'm
17 and Assistant Wayne County Prosecuting Attorney,
18 and it's my duty and my obligation to prove this
19 case to you beyond a reasonable doubt. So hold me
20 to that. It's my job. He who accuses must prove.
21 That's my obligation and I want you to hold me to
22 it. Okay.

23 In this particular case we are charging
24 this gentleman with murder in the first degree.
25 He's also charged with two other counts.

1 He's charged with being a felon in possession of a
2 firearm. And also a third count of felony
3 firearm. So those are the three counts that you'll
4 have to deliberate when you go into that jury room.

5 And when all the evidence in this case is
6 done, and when you've heard all the testimony, seen
7 all the exhibits and when you go in that jury room
8 to decide this case, I'm going to be asking you to
9 come back with three counts of guilty as charged
10 against him.

11 A few procedural matters I want to
12 address. In my 14 years of doing this, typically in
13 cases like this, we'll put on the witnesses. You'll
14 see the exhibits, and you'll go into the jury room
15 and decide the case. And a lot of times you'll send
16 out a note right away saying we want to see all the
17 reports. We want to see all the written
18 statements, all the written reports that everybody
19 did in this case.

20 Ladies and gentlemen, that's not evidence
21 in this case. The judge is going to tell you what
22 the evidence is. And the evidence is the testimony
23 you're going to hear from the witnesses on the
24 witness stand. That's what you need to use to make
25 your decision in this case. A lot of paperwork is

1 done just to help witnesses refresh their memory
2 when they get up on the stand, but it's not
3 admissible evidence. So you need to rely and
4 listen to the witnesses as they testify to make
5 your decision in this case.

6 Secondly, a lot of times a jury will send
7 out a note saying we want the transcripts of all
8 the testimony that we heard in the case. And
9 although that is available, it's very hard for this
10 young lady here to create all that for you because
11 she basically takes down all the testimony in a
12 shorthand form. Okay. And it takes hours and hours
13 to create a transcript.

14 Again, I'm just saying all this to let
15 you know how important it is for you to listen to
16 testimony from the witness stand.

17 And amongst all of you, paying attention
18 to that evidence I know that you can come back with
19 a verdict in this case, so that's just a little
20 procedural matter. I like to tell that to all
21 juries because sometimes there's a misconception
22 that we can just hit a button on the computer and
23 they'll be a transcript of all the testimony. It's
24 just not that easy. So please pay attention to the
25 testimony because that's the evidence in this case.

1 Now, you already heard a little bit about
2 this case, although what you heard was not evidence.
3 The judge read you the charges. We told you that
4 it's alleged this all happened back on September
5 6th of last year over on West Buena Vista near
6 Linwood in the city of Detroit. And that's on the
7 criminal information that charges Mr. Houston with
8 what he did.

9 But ladies and gentlemen, what this case
10 really involves are drugs, guns, and the whole
11 underworld cultural of that type of community.

12 As a prosecutor, I don't get to go out
13 and pick who the victim of the crime is. As a
14 prosecutor, I don't get to go out and pick who the
15 witnesses are going to be. Whoever is there when
16 it happens, those people are the witnesses. We have
17 to deal with that. We have to be up-front about
18 it. You're going to hear some of these witnesses
19 are also drug dealers. All right. And you have to
20 accept these people for who they are. They're going
21 to get up there and tell you what happened. They're
22 going to tell you about who they are, and so you
23 have to understand that.

24 Usually in some type of drug relating
25 killing the witnesses are either going to be drug

1 users or other drug dealers. That's common sense.
2 That's what your everyday life and experiences
3 should tell you.

4 I'm not going to have the president of
5 United States, although maybe you wouldn't find him
6 to be a credible witness either, but I'm just
7 telling you I don't get to pick witnesses. I bring
8 the witnesses in. I let them tell you what they
9 saw, what they observed, so you can make a decision
10 in this particular case.

11 The victim in this case was a young man
12 30 years old. His name was Carlton Thomas. And
13 you're going to hear that about five a.m., back on
14 September 6th, Mr. Thomas was cutting through a
15 field approaching some houses on Buena Vista, and
16 he was going over there to buy some crack cocaine.

17 On a porch at one of those houses on
18 Buena Vista was the defendant who was dealing drugs
19 back on that date at that time. On that same porch
20 with him was his girlfriend Christina Eshelman, who
21 is known on the street as Powder. And also with
22 him was a gentleman who on the street was known as
23 JW, but his real name was Jovan Johnson.

24 When Jovan Johnson and Mr. Houston see
25 the victim coming through the field, they yell out

1 to him. They ask him what does he need. What's he
2 want. What's up. All right. And, in fact, Mr.
3 Houston goes over to victim as he's coming through
4 the field so he can get the business and he can
5 deal him some drugs.

6 And you're going to hear that in this
7 particular case Mr. Carlton Thomas didn't want to
8 deal with Mr. Houston. He tells Mr. Houston I'll
9 spend money where I want to spend it. I'm not
10 dealing with you.

11 And that gets Mr. Houston irate. He gets
12 upset and he gets a gun. You'll hear testimony
13 about a 40 caliber gun in this particular case.
14 And what he does is he gets a gun and he points it
15 at the victim. The victim sees this. The victim
16 starts running away from him, and he starts
17 shooting at him. And the victim gets shot and Mr.
18 Carlton Thomas falls to the ground by a tree out
19 there on that field.

20 Mr. Houston at that time approaches Mr.
21 Thomas. He turns him over. Looks at him. Tells
22 the people back up on the porch that he shot him in
23 the face and proceeds to shoot him three more
24 times. Twice in the abdomen and once in the leg.

25 Mr. Houston calmly walks back at that

1 porch that he had been up on there, and he tells
2 Mr. Javon Johnson go check him out. Go see if he's
3 dead. And Mr. Johnson really doesn't want to have
4 anything to do with it but he does. He goes over
5 to that location, and when he gets over there he
6 realizes Mr. Thomas is actually still alive. He's
7 not dead yet. He's clinging to life at that point.

8 Mr. Johnson actually says some words to
9 him, and Mr. Thomas actually moves a little bit so
10 he knows he's still alive. But Mr. Johnson goes
11 back to Mr. Houston and tells him he's dead.

12 At that point Mr. Houston and Mr. Johnson
13 leave the area in a car. They try and get Powder
14 also known as Christina Eshelman to leave with them
15 but she doesn't want to go with them. She stays
16 there, and they leave that location.

17 Little did they know that there was
18 another witness to this crime. Little did they
19 know that seated in a vehicle was a gentleman by
20 the name of Lavero Crooks. He was sitting out
21 there in his car and he witnessed pretty much this
22 entire transaction go down.

23 He hears the words that are spoken. He's
24 going to come in and tell you that he witnesses Mr.
25 Houston shoot Mr. Thomas and kill him, which will

1 lead to his death, shots that will lead to his
2 death.

3 When the second round of shots starts,
4 Mr. Crooks leaves the scene in his car. But he was
5 out there and he witnessed it all, and he's going
6 to tell you exactly what happened.

7 The police officers get to the scene a
8 little while later. And when they first get there
9 Mr. Thomas is still alive. They conveyed Mr.
10 Thomas to the hospital where he's pronounced dead.
11 They try and do the whole medical procedures to see
12 if they can save his life, but too little too late.
13 The wounds are just too devastating for Mr. Thomas
14 to recover from.

15 The police start their investigation.
16 They eventually talk to these witnesses. They
17 eventually get Mr. Houston under arrest and that's
18 how we end up where we are today, ladies and
19 gentlemen.

20 I want to go back to the law for a minute
21 because I told you what I believe is the evidence
22 you're going to hear in this particular case. And
23 really this whole incident took no more than five
24 to ten minutes, but we're going to do a trial on
25 this that's probably going to take two to four

1 days. You got to remember this whole incident was a
2 matter of minutes.

3 So what are we talking about here. We're
4 talking about murder in the first degree. Now a lot
5 of us, we get our legal education from watching tv
6 and you think about premeditated murder when you
7 think about somebody planning over the course of
8 years that just killed somebody, that's what we
9 think about is premeditated murder.

10 But actually the judge is going to tell
11 you the law in this case. And the law is actually
12 very different than you might assume premeditate
13 murder to be. Because premeditation and
14 deliberation really means having the ability and
15 the chance to have a second thought about doing
16 these things, having the ability to reflect on your
17 actions.

18 An example might be you're driving your
19 car down the road and you're coming up to an
20 intersection and the light turns yellow. You
21 decided first off you're going to stop, and then
22 you realize, well, I think I got time to get
23 through that intersection and you done it and you
24 go through the intersection. Well, that's the
25 process of deliberating in your mind of making a

1 willful decision. Stopping and reflecting upon your
2 action.

3 It might be equivalent of shooting
4 somebody initially and going over there and turning
5 him over and standing over that person and deciding
6 to shoot him two or three more times. And that's
7 what we're talking about here in this case when we
8 talk about thinking about your actions about
9 premeditations and about deliberation.

10 We're not saying this is something that
11 Mr. Houston planned out over the course of weeks or
12 months, ladies and gentlemen. But he had the time
13 to reflect upon his actions. He did and he
14 continued to injury and shoot Mr. Thomas, and these
15 wounds end up causing his death.

16 The other counts are pretty simple in
17 this case, ladies and gentlemen. Count two is the
18 felon in possession of a firearm. In this case
19 there's going to be a stipulation between defense
20 counsel and myself. And what a stipulation is, it's
21 an agreement between defense and the prosecution.
22 And we're going stipulate that time this incident
23 occurred the defendant did not have a right to have
24 a gun, okay, because of his prior record. So
25 that's all that count is, is he had a weapon when

1 he wasn't allowed to because of his prior record.

2 Count three is called felony firearm and
3 that's another simple count because all we're
4 saying is when Mr. Houston committed a crime of
5 first degree murder, or felon in possession, he had
6 a firearm that did that crime.

7 Again, it's going to be uncontroverted in
8 this case that a firearm was used. You're going to
9 hear from the medical examiner in this case, that
10 Mr. Thomas had at least four bullet wounds through
11 his body. There's going to be no doubt in your mind
12 that a gun was used in this particular case.

13 Again, ladies and gentlemen, I want to
14 thank you for being here today, being on time.
15 We're not going to try to waste any of your time
16 for this case. We're going to move on as fast and
17 as expeditiously as we possibly can.

18 I'm going to ask you to consider all the
19 evidence that you hear in this particular case and
20 hear all the evidence. I'm asking you to come back
21 with a verdict consistent with the evidence and
22 that verdict will be that the Defendant, Michon
23 Houston is guilty of murder in first degree; being
24 in position of firearm while being a convicted
25 felon, and felony firearm.

1 Thank you very much, ladies and
2 gentlemen.

3 THE COURT: We're going to rise and have
4 the jury step in the jury room. Everyone rise.

5 THE BAILIFF: All rise, please.

6 THE COURT: Jurors are free to step in
7 that jury room.

8 (Jury exits courtroom @ 9:32 a.m.)

9 THE COURT: You may be seated. Go ahead,
10 counsel, you wanted to address the court before
11 your opening.

12 MR. LANKFORD: Yes, Judge, basically
13 here's what I have, this cases occurred in
14 September 6th of 2002. One of the alleged
15 witnesses in this, Lavero Crooks, the man who was
16 supposedly sitting in the car in the wee hours of
17 morning and then drove off. Mr. Crooks is a
18 complainant against Mr. Houston on another case.
19 That incident date being approximately two months
20 later, sometime the early part of November.

21 My concern is that on the one hand I
22 think it's important pointing out that Mr. Crooks
23 doesn't come forward for two months. In fact, he
24 doesn't come forward with any information.

25 THE COURT: What is it you want me to get

1 into?

2 MR. LANKFORD: Well, I guess the thing is
3 I don't want to be trying the Lavero Crooks case
4 here today, but I do think that I should be allowed
5 to bring --

6 THE COURT: If you bring it up, you may
7 open the door. Now I just have to see how far you
8 go with it. I am not your lawyer.

9 MR. LANKFORD: I understand that.

10 THE COURT: I'm the Judge. I'm here to see
11 that both sides get a fair shake. Now, I haven't
12 heard if he's going to object to you bringing it
13 in, and I don't think he could object because it
14 shows bias of the witness.

15 MR. LANKFORD: Right.

16 THE COURT: But if you open the door, you
17 open the door.

18 MR. LANKFORD: Well, the way I was going
19 to phrase it.

20 THE COURT: Excuse me. I'm not going to
21 give you any legal advice because that's not what I
22 get paid for. I get paid to rule balls and strikes
23 here.

24 MR. LANKFORD: What I am inquiring, okay,
25 is if this court, if I simply said you didn't come

1 forward until you had a beef with Mr. Houston, if
2 this court is viewing this as me flinging the door
3 open.

4 THE COURT: I don't know, I don't know
5 what kind of an answer he's going to get and then I
6 don't know how he's going to counter. See, you got
7 to wait until we get there. I can't see into the
8 future.

9 MR. LANKFORD: Right.

10 THE COURT: Now, I don't know why we
11 needed this for -- well, you can bring it up in
12 opening statement, that way if that's what you want
13 to do and then we'll see what develops because the
14 prosecutor may be intending to cut you off at the
15 pass by bringing up the bias himself. Because he's
16 going to get an opportunity for direct examination
17 of the witness, right?

18 MR. LANKFORD: That's true.

19 THE COURT: So now tell me, why are we
20 talking now?

21 MR. LANKFORD: Well, because some judges
22 will give me an indication whether they think what
23 Mr. Johnson consider to be a minor opening of the
24 door, flings it open in its entirety.

25 THE COURT: I have no idea. I have to

1 hear what develops during the trial because I have
2 no idea what the prosecutor's tactic is going to
3 be. I'm quite sure that he would have or the only
4 thing he wants to know is judge are you going to
5 say we can't bring it up at all. I'm not saying
6 that because it goes to the bias of the witness.
7 Then he gets to deal with it any way he wants. Now
8 are you ready to rise for our jurors?

9 MR. LANKFORD: Yes, Your Honor.

10 THE COURT: Okay, ready to move along?

11 MR. HASSINGER: Yes, Your Honor.

12 MR. LANKFORD: Yes, Your Honor.

13 THE COURT: Okay, let's bring in the jury.

14 (Jury enters courtroom)

15 THE COURT: The jury may be seated when
16 you come in. You may be seated.

17 MR. LANKFORD: Ladies and gentlemen of the
18 jury, good morning. You can say good morning when
19 we're altogether. All right. My name is David
20 Lankford. I represent Mr. Houston. And you heard
21 one version of the facts. What a surprise there's
22 a second version. It is true that Carlton Thomas
23 was shot to death in the early morning hours of
24 September 6th, 2002 in an area near Linwood and
25 West Buena Vista. A vacant field.

1 We are here to determine whether or not
2 this man did it. And I'm going to submit now, no
3 way. Basically you might as well know going in,
4 okay, that you are dealing with perhaps characters
5 that you don't normally deal with in your life.
6 Including Mr. Houston. You already heard the judge
7 tell you he's got a prior and he's got a prior drug
8 offense.

9 The People are going to say look this is
10 what's known as a civilian driven case, two, maybe
11 three witnesses, depending. The police essentially,
12 you know, we found a man who had been shot. We had
13 him transported to a hospital where he expired.
14 Came out, took some photographs. Trying to find
15 whatever evidence we could. But for the better
16 part we canvased the neighborhood, talked to the
17 few people. Talking to the woman that apparently
18 lives in the house. The rear of that house or
19 apartment building would overlook the field. Talked
20 to some other people.

21 And for essentially two months they have
22 a homicide and they got no suspects. That's where
23 they are. Don't know when they closed him in the
24 file. They put it in close. And it's terrifying.
25 Sometimes I guess when you do this on a regular

1 basis you realize how mean the streets can be. You
2 guys will probably hear and see some things that
3 you don't normally see in your lives, that you may
4 intentionally try to avoid depictions of violence
5 of this nature. And it's not pretty.

6 The other thing that is terrifying is how
7 easy it is to get charged with a crime. Any crime.
8 Because what happens is for two months the police
9 sit with this homicide and no suspects. And
10 everybody in the neighborhood seems to know one
11 another. Tenisha Watson, Christina Eshelman,
12 Michon Houston, Jovan Johnson, Lavero Crooks, Keith
13 Lee. They all seem to know each other. They're
14 all somehow associated with the drug world.

15 Two months later Jovan Johnson, I guess
16 they call their star witness, Jovan Johnson manages
17 to get himself in police custody. He's in there.
18 They want to figure out because he's got some
19 connection to this Buena Vista and Linwood area.
20 Homicide detectives go and talk with him. They go
21 and talk with him. For two months the man doesn't
22 know anything about anything until the homicide
23 detectives show up to talk with Mr. Jovan Johnson.

24 They talked with him basically that
25 they're talking about Saturday, September 6th, he

1 seem to know the date. They talk to him about the
2 fence and what happened, this incident, the
3 homicide and some of you want to call it squeezing
4 or sweating or just making the man nervous.

5 Mr. Johnson appears to get the
6 impression, that gee, they're looking at me.
7 They're looking at me as the gun man. I don't want
8 that, so let me give you a name. Let me give you a
9 name. Okay.

10 The name he gives is Michon Houston. But
11 remember folks, I don't have to prove he didn't do
12 it and I don't have to prove who did. They have to
13 prove that he did it. Okay.

14 Mr. Johnson basically says Michon Houston
15 is the man, two months later under these circumstances.

16 Now, there's another person named Lavero
17 Crooks. Lavero Crooks hangs out in the area. He's
18 in the drug game too, or appears to be.

19 And Mr. Crooks doesn't say anything for
20 two months. He doesn't know anything. But then he
21 hangs with Jovan Johnson. They appear to know each
22 other well enough maybe because they're competitors,
23 who knows. But now similarly two months later when
24 they talk to Lavero Crooks also known as Country,
25 at least that's what he's known by to Jovan

1 Johnson. He comes up with the same thing. Oh yeah,
2 he shot Houston. Michon Houston, yeah, that's
3 right, Michon Houston. Two months ago I saw it
4 too.

5 He didn't come forward. He didn't tell
6 anybody that he happened to be in a car parked
7 there in the wee hours of the morning, 5:00 o'clock
8 in the morning. But I saw it too, yeah and yeah
9 that's the guy. So basically what you'll have to
10 do, you know, this is fairly straight forward here.
11 Think to yourself, number one, if you really saw
12 this why two months. Why aren't you on the phone
13 that night or perhaps the next day as soon as you
14 feel comfortable, anonymous, okay, I know something
15 about that. For two months nobody does that.

16 Then in particular with regards to
17 Jovan Johnson, when you look into his credibility,
18 his honesty, whether or not this man is telling the
19 truth or lying, look at his reasons. He thinks
20 he's going to be charged with first disagree murder
21 and he doesn't want that. The bottom line is, you
22 know, ultimately being a civilian driven case, I
23 see absolutely no reason why this man should be a
24 higher priority or suspect than either Jovan
25 Johnson or Lavero Crooks. That's where we are.

1 He didn't shoot the man. He indicated
2 that he never had a gun. Yeah, he's got a prior
3 felony. I'm going to stipulate to that. But
4 unless you believe the testimony of Jovan Johnson
5 and Lavero Crooks, you cannot find proof beyond a
6 reasonable doubt. You cannot find proof beyond a
7 reasonable doubt on murder, that this is entitled
8 to not guilty on all three counts.

9 Thank you for your time.

10 THE COURT: Ready to call your first
11 witness?

12 MR. HASSINGER: Yes, Judge.

13 THE COURT: You may. Who are you
14 calling?

15 MR. HASSINGER: I'm going to see if the
16 medical examiner is out in the hall, Judge.

17 THE COURT: Wonderful.

18 MR. HASSINGER: Thank you, Judge.

19 THE CLERK: Raise your right hand,
20 please. Do you solemnly swear or affirm that the
21 testimony you're about to give before the court to
22 be the truth under the pains of penalty of perjury?

23 DR. PAUL NORA: I do.

24 THE CLERK: Thank you.

25 THE COURT: Please be seated right there.

1 We're going to ask the officer to adjust the
2 microphone for you. You're going to actually speak
3 right into it. Counsel, whenever you're ready.

4 MR. HASSINGER: Judge, before I begin
5 questioning this witness, there's one stipulation
6 that counsel and I would like to enter into about
7 one witness's testimony.

8 THE COURT: All right, go ahead.

9 MR. HASSINGER: That would be listed on
10 the witness list is Cynthia Thomas. And, Judge, we
11 have a stipulation that if I called Cynthia Thomas
12 to the stand, she would come into court and she
13 would testify that she was the mother of the
14 deceased in this case Mr. Carlton Thomas. And that
15 unfortunately she had to go to the Wayne County
16 Morgue on September 7th, I believe, 2002 and she
17 positively identified the body there at the morgue
18 as her son Carlton Thomas and that was the person
19 who was killed on September 6th, Judge.

20 THE COURT: Is that a correct statement of
21 this stipulation?

22 MR. LANKFORD: Agreed, Your Honor.

23 THE COURT: All right, we will accept the
24 stipulation and the witness may remain in the
25 courtroom if she is here.

1 MR. HASSINGER: Thank you, Judge.

2 THE COURT: Now you may proceed.

3 MR. HASSINGER: Thank you, Your Honor.

4 DR. PAUL NORA

5 was thereupon called as a witness by the People
6 herein and having been duly sworn, was examined and
7 testified as follows:

8 DIRECT EXAMINATION

9 BY MR. HASSINGER:

10 Q. Good morning, sir. Would you please introduce
11 yourself to our jury?

12 A. My name is Dr. Paul Nora. I'm with the Wayne
13 County Medical Examiner's Office, forensic
14 pathology.

15 Q. Can you tell the jury what forensic pathology is,
16 sir?

17 A. Forensic in general is the interaction between
18 science and the legal system, and forensic
19 pathology in particular is the evaluation of
20 illnesses and injuries as they relate to death.

21 Q. Sir, have you ever testified as an expert in court
22 before?

23 A. Yes, I did.

24 Q. Can you tell us approximately how many times you've
25 testified as an expert?

1 A. This will be the ninth time.

2 Q. The ninth time. The other eight you were
3 recognized as an expert in this area?

4 A. Correct.

5 Q. And, again, what is your expertise?

6 A. Forensic pathology.

7 Q. Did you bring some reports here with today
8 regarding some type of autopsy that you
9 participated in?

10 A. Yes, I did.

11 THE COURT: Excuse me.

12 MR. HASSINGER: I'm sorry, Judge.

13 THE COURT: Are those -- you got some
14 officers in here.

15 MR. HASSINGER: They're not witnesses on
16 the case, Judge.

17 THE COURT: Please approach for a moment.

18 MR. HASSINGER: Yes ma'am.

19 (Discussion at bench out of the
20 hearing of the jury.)

21 (On the record.)

22 MR. HASSINGER: Thank you, Your Honor.

23 THE COURT: You may continue, counsel.

24 BY MR. HASSINGER:

25 Q. Sir, can you tell us what type of training and

1 experience you've had in order to become a forensic
2 pathologist?

3 A. After medical school, which I graduated Wayne State
4 University, I did a three year anatomic pathology
5 training program at the Detroit Medical Center.
6 And now I'm in my fourth year, the specialty year
7 in forensic pathology.

8 MR. HASSINGER: Judge, at this time I'd
9 like to turn the witness over to defense to see if
10 they wish to voir dire on the expertise.

11 MR. LANKFORD: I'll just briefly conduct,
12 Dr. Nora.

13 THE COURT: All right.

14 MR. LANKFORD: Good morning, Dr. Nora.

15 THE WITNESS: Good morning.

16 MR. LANKFORD: I take it your education
17 would be essentially that you had to complete under
18 grad after high school, correct?

19 THE WITNESS: Correct.

20 MR. LANKFORD: And then med school?

21 THE WITNESS: Correct.

22 MR. LANKFORD: And then you did went into
23 the residency?

24 THE WITNESS: Three year anatomic pathology
25 residence, correct.

1 MR. LANKFORD: And the hospital that that
2 was done at?

3 THE WITNESS: Detroit Medical Center.

4 MR. LANKFORD: All right, and when did you
5 complete that residency?

6 THE WITNESS: June 30th of last year.

7 MR. LANKFORD: Okay, and then from there
8 you went immediately to the Wayne County Medical
9 Examiners office?

10 THE WITNESS: Correct.

11 MR. LANKFORD: And you say the essential
12 function of the Medical Examiner's Office is to
13 determine cause and the manner of the death and
14 nonnatural deaths; would that be fair?

15 THE WITNESS: That's correct.

16 MR. LANKFORD: And that's how you've been
17 employed now for the last nine months?

18 THE WITNESS: That's correct.

19 MR. LANKFORD: And during that period of
20 time approximately how many autopsies would you say
21 you've done?

22 THE WITNESS: I was between 319 and 320
23 when I was called this morning.

24 MR. LANKFORD: You're right in the middle
25 of one. Okay, I have no further questions on very

1 voir dire. Thank you.

2 THE COURT: Your motion?

3 MR. HASSINGER: Judge, at this time I'm
4 going to move to have the court recognize the
5 witness as an expert in the area of forensic
6 pathology.

7 MR. LANKFORD: No objection, Your Honor.

8 THE COURT: We will take his testimony as
9 an expert in forensic pathology.

10 MR. HASSINGER: Thank you, Your Honor.

11 BY MR. HASSINGER:

12 Q. Sir, I'd like to turn your attention to a
13 particular autopsy. It would be your case number,
14 I believe, 02-8524. Did you bring the records
15 concerning that autopsy, sir?

16 A. Yes, I did.

17 Q. And can you tell us what your role in that autopsy
18 was?

19 A. I'm the fellow involved and so I did the autopsy
20 under the supervision of my attending that day who
21 happened to be Dr. Hlavaty.

22 Q. Can you tell the jury what you do first when you
23 are assigned an autopsy?

24 A. An autopsy is basically broken down into a couple
25 of different stages. The first stage is called the

1 external examination in which the whole group of
2 pathologist at that office that day evaluate the
3 body externally to review any injuries or any signs
4 of disease or illness.

5 Then if there's photographs that are
6 necessary that need to be taken, photographs are
7 taken by the photographer and then we proceed with
8 the autopsy itself which has to do with the
9 internal examination.

10 Q. Can you tell us what date this occurred?

11 A. We performed this autopsy on September 7th, 2002.

12 Q. And did you eventually determine the identity of
13 the body you were performing the autopsy on?

14 A. We identified the body as Carlton Milton Thomas.

15 Q. Can you tell us what your examination of the
16 external body revealed?

17 A. The external evaluation revealed a normally
18 developed, normally nourished black male who was
19 approximately 30 years of age, which was the stated
20 age. The body measured 61 inches in length and
21 weighed 152 pounds. In addition to a number of
22 scars and treatment modalities from the hospital we
23 also found four gun shot wounds.

24 Q. Now, did it appear to you that the body had been at
25 the hospital prior to coming to the Wayne County

1 Medical Examiner's Office?

2 A. That's correct.

3 Q. And do you, in fact, get any records from the
4 hospital, what occurred there so you can review
5 them for your autopsy?

6 A. If necessary.

7 Q. Okay, was it necessary in this case?

8 A. I don't believe we had the medical records on this
9 case.

10 Q. Okay, was it necessary?

11 A. No.

12 Q. Now, you said that there were a total of four gun
13 shot wounds on the body?

14 A. Correct.

15 Q. In order for your reports, do you number the gun
16 shot wounds?

17 A. Yes, we arbitrarily number them just so we have a
18 way of describing them in the text of our report.

19 Q. And also do you create some type of diagram where
20 you can roughly indicate where gun shot wounds are
21 on a body?

22 A. That's correct.

23 Q. And did you perform such a diagram in this
24 particular case?

25 A. Yes, we did.

1 Q. And do you have that diagram with you here today?

2 A. Yes, I do.

3 MR. HASSINGER: May I approach the
4 witness, Your Honor?

5 THE COURT: You may.

6 THE WITNESS: There is one correction I'd
7 like to make on the diagram. We have two exit
8 wound twos and there should, of course, only be one
9 exit wound number two.

10 Down at the knee there should be an
11 entrance one and then it says right next to it,
12 exit two, if I'm correct; is that correct?

13 MR. LANKFORD: Correct.

14 THE COURT: Excuse me, have you seen
15 this?

16 MR. LANKFORD: Yes, I have, thank you,
17 Your Honor.

18 THE COURT: Okay, go ahead.

19 BY MR. HASSINGER:

20 Q. I'd like to hand this diagram back to you. Sir,
21 I'd like to show you what I've had marked as
22 People's Proposed Exhibit Number 1. Can you tell us
23 does this appear to you to be a blown up copy of
24 this sketch that was prepared in this particular
25 case?

1 A. Yes, it is.

2 MR. HASSINGER: Judge, I had a chance to
3 show this to defense counsel earlier. I believe
4 there's no objection to the admission of this
5 exhibit.

6 MR. LANKFORD: That's correct, Your Honor.

7 THE COURT: Then it will be admitted into
8 evidence.

9 MR. HASSINGER: So this would be Exhibit
10 Number 1, Your Honor.

11 THE COURT: Right.

12 (PX #1 received into evidence)

13 MR. HASSINGER: Your Honor, I'd like to
14 put this exhibit on the easel here and have it in a
15 way hopefully everybody can observe it.

16 THE COURT: Okay, you don't have to worry
17 my being able to observe it, but you must have it
18 in a such a way -- counsel, you're going to
19 probably want to move so you can observe it.

20 MR. LANKFORD: Thank you.

21 THE COURT: Can all of our jurors see the
22 diagram that's been placed?

23 Okay, go ahead.

24 MR. HASSINGER: Judge, may I ask if the
25 witness leave the stand and come down to the

1 diagram?

2 THE COURT: He may.

3 MR. HASSINGER: Thank you.

4 BY MR. HASSINGER:

5 Q. Doctor, I'm going to ask to come down and use this
6 diagram please to help the jurors understand the
7 case.

8 Now, you said that you did label the
9 wounds you saw and let's start with, what did you
10 label as gun shot wound number one?

11 A. Gun shot wound number one was the wound to the
12 knee. And in this situation we use a circle as the
13 entrance wound. And if there's a corresponding
14 exit wound you use an X. And as I mentioned this
15 is a printed error here.

16 So this particular wound exited on this
17 side of the left knee and moved towards the middle
18 of the body and then exited it on the inner aspect
19 of the left knee.

20 Q. Doctor, I got a marker here and I'm going to ask
21 you to make the correction. You say there's an
22 incorrect numbering there?

23 A. Right.

24 Q. Would you make the correction for us.

25 A. If you see here this says entrance gun shot wound

1 number one, and this says exit gun shot wound
2 number two. Well, it should be number one. And
3 exit gun shot wound number two is actually up here
4 in association with the entrance gun shot wound up
5 here. Okay.

6 Q. Thank you, Doctor.

7 And, again, when you number these,
8 Doctor, you're not indicating, are you, that this
9 is the order the gun shots happened, are you?

10 A. Correct, we're just arbitrarily numbering so we can
11 identify them in our report.

12 Q. So you're saying that the gun shot number one
13 entered slightly below the knee on the front of the
14 leg; is that correct?

15 A. Correct.

16 Q. And did it exit on the side? I can't quite see
17 from your diagram.

18 A. It exits right here and it exited on the inside of
19 the left knee.

20 Q. Inside of the left knee?

21 A. Correct.

22 Q. Now, let's move on. Did you label one of the gun
23 shot wounds as gun shot wound number two?

24 A. Correct.

25 Q. Can you show you on the diagram gun shot wound

1 number two?

2 A. Again, the circle represents the entrance wound in
3 this instance, and this occurred on the left side
4 above the hip, and the exit, this is now the
5 posterior aspect of the body diagram. The exit is
6 also on the left side just above the buttock.

7 Q. So can you tell us what direction that bullet was
8 traveling?

9 A. Gun shot wound number two traveled from front to
10 back which we can see on the body diagram very
11 easily. And in this situation somewhat left to
12 right, so it was further out on this aspect of the
13 drawing then it was on this aspect of the drawing.

14 And also slightly downward, meaning that
15 in the measurement from the shoulder to the entrance
16 and the exit and had gone sliding down.

17 Q. Can you tell us which shot you labeled as gun shot
18 wound number three?

19 A. Gun shot wound number three is this particular
20 wound here and that exit again in the back on this
21 side.

22 Q. Now, what's different about gun shot wound three as
23 opposed to gun shot wound number two in terms as
24 the way the bullet traveled?

25 A. Gun shot number two is where you can see this is

1 the left side of the front of the body. This is
2 left side of the back of the body, so it stayed on
3 the left listed side of the body.

4 Gun shot wound number three begins on the
5 left side of the body but ends on the right side of
6 the back to this point right here.

7 Q. And finally there's a fourth gun shot wound,
8 Doctor?

9 A. Correct.

10 Q. Can you describe that gun shot wound for us,
11 please?

12 A. This one's a little bit atypical or more difficult
13 to describe because there is a tendency for bullets
14 once they entered and exited the body they can
15 reenter and then re-exit the body. And so one
16 bullet wound can actually be four different wounds
17 or three different wounds depending on the course
18 and the entry trajectory of the bullet. So in this
19 particular instance it should be identified the
20 initial entrance wound high on the right cheek.

21 And then the first exit wound is a little
22 lower on the right cheek. And then right next to
23 the exit wound from the first time there's another
24 entrance wound and then it goes underneath the lip
25 and then exits to the front of the lip.

1 And so we have an entrance and exit, a
2 reentrance right next to the first exit and the
3 another exit. We describe that as only one because
4 of the proximity of the wounds and in fact that
5 there's a straight line between the original exit
6 or the original entrance and the last exit.

7 Q. Doctor, can you tell us were any bullets recovered
8 from the body of Mr. Thomas?

9 A. No bullets or part of bullets were recovered from
10 the wound tracks.

11 Q. And you describe in your report these wounds as
12 through and through wounds; what does that mean?

13 A. Through and through means it enters and exits the
14 body, so in this instance we have an entrance and
15 an exit, an entrance and an exit, and an original
16 entrance and then finally an ending exit.

17 Q. So this isn't a situation where any bullets were
18 actually lodged in any part of the body?

19 A. That's correct.

20 Q. Now, I want to go to gun shot wound number four for
21 a moment because I'm trying to figure out how a
22 wound like this can have been caused, and I'm
23 curious and I want you to tell me in your expert
24 opinion if this is a possibility for how a wound
25 like this could be caused.

1 Say I was running away from somebody,
2 somebody over here on this side of the room, okay.
3 And say for a moment I look back with my head at
4 the person I was running from. In such a manner
5 I'm turning head the opposite direction of the way
6 my body is facing. That person shot at that time,
7 is that a way I can get this wound number four.

8 A. If you're running this way towards me but you're
9 looking back this way?

10 Q. Correct.

11 A. Then if anybody shot from this direction, I would
12 not expect the trajectory of the bullet to be from
13 back to front. I would expect the trajectory of
14 the bullet to be from front to back.

15 Q. Okay.

16 A. In this particular instance our other trajectory is
17 coming from back to front.

18 Q. So can you think of a way that this type of wound
19 could occur?

20 A. In most instances when we have an entrance exit,
21 reentrance re-exit, it's because of a folding in
22 the skin. If a person tipped in a particular
23 fashion, the easiest place, of course, is the
24 abdomen. If you're bent over and the abdomen rolls
25 on itself and then you have an entrance and exit,

1 and then you get the roll and it exits and then it
2 enters the roll below that first roll and it then
3 exits.

4 So it's usually some form of the skin
5 being in a position where the first exit and the
6 entrance are in close proximity.

7 Q. So all we can really tell for gun shot wound number
8 four that it hits him there and basically in the
9 high cheek bone area?

10 A. Correct.

11 Q. And we don't really know -- you can't give us
12 anymore of an expert opinion of how the rest of the
13 wound occurred?

14 A. In terms of the position of the body, no, I cannot.

15 Q. Thank you, Doctor.

16 THE COURT: You may resume the seat.

17 MR. HASSINGER: You can have your seat
18 again. Thank you.

19 BY MR. HASSINGER:

20 Q. So you first observe these four different wounds in
21 you exterior analysis; is it correct?

22 A. That's correct.

23 Q. What do you do next, sir?

24 A. After the external examination is completed we make
25 a Y incision in the chest and abdomen and remove

1 the abdomen block and then make scalp incision and
2 remove the skull cap in brain.

3 Q. Were you able to determine the cause death in this
4 particular case?

5 A. Yes, the cause of death was multiple gun shot
6 wounds. In this instance four.

7 Q. Were any one of these gun shot wounds more
8 significant in your medical opinion?

9 A. Yes. Gun shot wound number one involved only the
10 soft tissues of the knee.

11 Gun shot wound number two only involved
12 the soft tissues of the abdomen and back.

13 Gun shot number three was the most
14 serious wound because it traversed the abdominal
15 cavity, and in doing it hit the vena cava which is
16 the largest vein in the body that's coming up from
17 the lower extremities. And it also hit the right
18 hip before it exited loss. So those two particular
19 wounds caused a significant amount of bleeding into
20 the abdominal cavity.

21 The fourth wound, although in a terrible
22 place probably didn't cause as much injury as the
23 third wound because it only hit the upper jaw and
24 then dislodged some teeth, so there was a fracture
25 of the upper jaw. But other than that, the third

1 wound is the one that was the problematic one.

2 Q. Did you make any other observations about any other

3 damage to the exterior of Mr. Thomas' body?

4 A. Yes, we noted a couple of scrapes on each knee,

5 abrasions.

6 Q. And did you -- go ahead, I'm sorry.

7 A. They are also indicated on the diagram.

8 Q. I see some markings diagram on the knee area; are

9 these the abrasions you're referring to?

10 A. Correct.

11 Q. Can you tell were these old abrasions or did they

12 appear to be fresh abrasions? Can you tell those

13 things?

14 A. Yes, we can tell and these certainly appear to be

15 terminal at the time of the patient's demise.

16 Q. So you're saying these occurred relatively closely

17 around the time the patient passed away?

18 A. That's correct.

19 Q. Would that be consistent with someone falling on

20 their knees?

21 A. Absolutely.

22 Q. Doctor, can you explain to the jury what the

23 expression of close-range firing means?

24 A. When a gun is discharged, there is soot and

25 unburned and burned gun powder that comes out of

1 barrel as well as the bullet coming out of the
2 barrel. Based on distance from a given target, you
3 can see either the soot or the gun powder as it
4 exits the barrel. As that distance becomes
5 greater, of course, there's less likelihood of
6 seeing the soot or the gun power on the particular
7 target.

8 So the closer you are to a target, the
9 more likely you are to see close-range firing
10 evidence which is the soot and the gun powder.

11 Q. Did you examine Mr. Thomas' body for evidence of
12 close-range firing?

13 A. Correct. On the present entrance wounds, there was
14 no evidence of close-range firing on any of the
15 wounds.

16 Q. And what does that mean to you, sir?

17 A. In particular it's difficult to tell if the body is
18 covered with clothing, then of course that gun
19 powder and soot may not reach the body at all. So
20 it could still be close-range, but it's being
21 blocked by something.

22 If, however, there's no clothing or
23 covering over that particular portion of the body
24 without ever going close-range firing, you will
25 then find that that gun was discharged a distance

1 away from the person such that there could be no
2 soot or gun powder.

3 Q. In this case did you make any effort to determine
4 what type of clothing the victim was wearing when
5 this occurred?

6 A. No clothing was received with the body.

7 Q. But certainly when you examine the facial wound
8 there was no evidence of close-range firing; is
9 that correct?

10 A. That's correct.

11 Q. And you knew that this shooting occurred the day
12 before you did the autopsy on September 6th,
13 correct?

14 A. That's correct.

15 Q. Okay.

16 Did your office do any type of testing to
17 see what if any type of drugs or alcohol what the
18 victim Thomas could have had in his system when
19 this occurred?

20 A. Yes, we did our usual routine toxicology evaluation.

21 Q. And do you have the results here with you today?

22 A. Yes, I do.

23 Q. Tell us, please, if any drugs or alcohol were in
24 his system?

25 A. Alcohol was present and both cocaine and the

1 metabolites of cocaine were present.

2 Q. Can you tell us what level of alcohol?

3 A. The level of alcohol in the blood was .07. The
4 level of alcohol in the urine was .2, and the level
5 of alcohol in the fluid of the eye was .12.

6 Q. Can you tell us what's significant about those
7 different variations from a medical point?

8 A. Well, of course, a level in the blood stream will
9 go up and then come down as drinking occurs and
10 then stops. And as their body metabolizes the
11 alcohol after ingestion of drinking, the blood
12 level will come down.

13 What happens in the urine and in the
14 vitreous, the vitreous follows the blood alcohol
15 concentration but it lags it, it doesn't follow it
16 directly. In other words, there's a time lapse
17 between the highest peak in the blood and highest
18 peak in the vitreous, but it follows the same
19 course.

20 In the urine you get concentration of
21 alcohol because urine is one of the ways we excrete
22 the alcohol and so we generally have a higher
23 concentration in the urine after a person had been
24 drinking for a while because the body is starting
25 to excrete it.

1 Q. The fact being the alcohol blood level is less than
2 urine, would that indicate that the drinking had
3 been done some time prior?

4 A. Correct.

5 Q. Tell us about what's medically significant about
6 the cocaine level?

7 A. Any cocaine level is abnormal, of course, because
8 we don't have cocaine in our system. The fact that
9 cocaine, the actual cocaine molecule as well as the
10 breakdown products of that molecule will indicate
11 that the use of the cocaine was very recent prior
12 to the death.

13 Q. Doctor, is there anything else medically
14 significant to you in your autopsy that you
15 performed on Mr. Carlton Thomas?

16 A. No.

17 MR. HASSINGER: Thank you. Judge, at this
18 time I'll turn over the witness for cross-
19 examination.

20 THE COURT: Cross-examination.

21 MR. LANKFORD: Thank you.

22 CROSS-EXAMINATION

23 BY MR. LANKFORD:

24 Q. Good morning again, Doctor?

25 A. Good morning.

1 Q. Let's start with talking about close-range firing.
2 I guess there would be -- and let me just make
3 sure, I mean, it's fairly obvious to you as a
4 forensic pathologist on each of these four wounds,
5 which are the entrance and which are the exit,
6 correct?

7 A. That's correct.

8 Q. I mean they are obvious when you look at them as
9 trained as you are, correct?

10 A. Nothing's ever obvious.

11 Q. But you can definitely discern the difference on
12 this case.

13 A. Yes.

14 Q. Now, on these I'm going to use later, but on three
15 of the four you clearly have a front to back
16 entrance path, correct?

17 A. That's correct.

18 Q. Now, you were talking about close-range firing. I
19 take it there would be three types of entrance
20 wounds. One would be like in this one where
21 there's no evidence of any close-range fire,
22 correct, sir?

23 A. Okay.

24 Q. Is that right?

25 A. Uh-huh.

1 THE COURT: Does that mean yes? You said
2 uh-hum, does it mean yes?

3 THE WITNESS: Yes.

4 THE CLERK: Thank you.

5 BY MR. LANKFORD:

6 Q. And then would have, I take it, that after a
7 certain distance, you know, and I'm going to get to
8 that in a minute, but we would be unable to tell
9 whether a wound came from seven feet or 70 feet,
10 right, sir?

11 A. That's correct.

12 Q. Okay.

13 Then we have, I believe, a second type
14 where you might have what's known as close-range in
15 the sense that you get some soot, some gun powder
16 actually embedded in the skin; is that right?

17 A. That's correct.

18 Q. And there was no evidence -- is that also sometimes
19 called skipping?

20 A. Correct.

21 Q. In this situation you didn't find any evidence of
22 that type of close-range firing on any of the four
23 wounds?

24 A. That's correct.

25 Q. And in this situation, again, assuming logically

1 that Mr. Thomas was clothed at the time of the
2 shooting, you didn't receive any clothing?

3 A. We did not receive any clothing.

4 Q. Right, that would be something outside the medical
5 examiner, right?

6 A. If the body comes to the Medical Examiner's Office
7 first then, of course, we get the clothing. In
8 most instances, however, when the body goes to the
9 hospital first, the hospital in doing its
10 evaluation of the patient and treatment of the
11 patient takes all of the clothing, and we tend not
12 to see that.

13 Q. That's just out of your hands at that point, right?

14 A. Correct.

15 Q. And clothing could be a barrier to the gun powder,
16 the soot that you've indicated, nylon or cotton it
17 might be on that rather than on the body, right,
18 sir?

19 A. Just about anything could be a barrier in terms of
20 clothing or even not clothing.

21 Q. But as to gun shot number four the one of the face
22 that you said probably broke the jaw and knocked
23 out some teeth, that one you had no idea whether or
24 not there was any clothing on the face, right, sir?

25 A. Correct.

1 Q. But, again, as to the facial wound, no evidence of
2 close-range firing?

3 A. That's correct.

4 Q. And then we have discussed that close-range fire
5 would essentially be -- let me go back. There
6 would be a third type of wound, I guess, called a
7 contact wound?

8 A. That's correct.

9 Q. Okay.

10 Contact wounds would be -- I hate to do
11 this, but basically up close and personal, right?

12 A. That's correct.

13 Q. There's going to be a whole different type of
14 marking on the skin when a firearm is depressed
15 against skin at the time of discharge, right?

16 A. That's correct.

17 Q. Now, going back in this case to the intermediary
18 one, the close-range firing. Essentially there
19 would be -- you're talking a foot and a half to two
20 feet kind of thing?

21 A. That's correct.

22 Q. Okay.

23 No more than that because then we're
24 talking about the distance firing, right?

25 A. Again, it depends on the weapon.

1 Q. Sure.

2 A. You know, the longer the barrel the more likelihood
3 you're going to have a longer distance. The
4 shorter the barrel the more likely you'll have a
5 shorter distance. But two feet is generally the
6 outside for what we consider for handguns.

7 Q. And generally let's assume a handgun here, the
8 shooting occurred within, let's say a foot away, 12
9 or 15, normally you would find this gun power that
10 you had talked about, right?

11 A. Yes.

12 Q. Now, taking each of these injuries -- I want to
13 make sure that I understand taking them separate,
14 and obviously you indicated number four would have
15 been extremely painful, but in and of itself
16 probably not going to cause death, right?

17 A. Correct.

18 Q. Number two, while in a vital area appears to
19 basically just gone through the left leg?

20 A. That's correct.

21 Q. And not hit anything vital?

22 A. That's correct.

23 Q. Number three though traversed from one side to the
24 other, the lower abdomen and all kinds of damage,
25 right?

1 A. That's correct.

2 Q. Now, number four also, number four -- I'm sorry,
3 number one, the one to the knee, you can see an
4 entrance wound that looks like above the knee cap,
5 right, somewhere near there?

6 A. A little bit left and below.

7 Q. And coming out on the inside of that knee?

8 A. Correct.

9 Q. And that one in and of itself unless it hit like
10 the artery probably wouldn't account for death
11 either, right?

12 A. No.

13 Q. But in one, in that particular one, again, I think
14 we talked about all three from the neck down were
15 all front to back?

16 A. That's correct.

17 Q. Now, the knee I take it though you're going to hit
18 ligaments, tenons, muscles that kind of thing?

19 A. In this instance it just went through the skin.

20 Q. Really?

21 A. Yes.

22 Q. Okay, okay.

23 Now, you were asked some questions -- I'm
24 sorry, no, bullets in the body, right?

25 A. That's correct.

1 Q. Okay, in other words, those little lead slugs that
2 are so dangerous, right?

3 A. Correct.

4 Q. Because each of these wounds what you described as
5 through and through?

6 A. That's correct.

7 Q. Meaning that they had passed entirely out of the
8 body?

9 A. Correct.

10 Q. Now, with regards to the wound to the face, you
11 were asked if a person was -- and the wound that
12 was slightly back to front, correct?

13 A. It's back to front.

14 Q. Right to left?

15 A. May I stand to look at this?

16 THE COURT: Yes.

17 THE WITNESS: Yes, right to left and then
18 slightly downwards.

19 BY MR. LANKFORD:

20 Q. Slightly downward, okay.

21 So certainly if a person were looking
22 behind them over their left shoulder as opposed to
23 over the right shoulder, that's impossible, isn't
24 it, that wound to the cheek would be impossible if
25 you're looking behind to your left, correct?

1 A. If you were looking behind to your left, I wouldn't
2 expect there to be entrance wound on your right
3 cheek, that's correct.

4 Q. And what we're talking about when we talk back to
5 front, I mean, we're not talking like from the
6 brain stem? We're talking about on the side on the
7 cheek bone area?

8 A. When we discussed the trajectory of any bullet we
9 use has it moved from behind the midline as we draw
10 a line through the body from top to bottom, has it
11 moved from behind to forward.

12 Q. No matter how much movement is on that plane you
13 would consider right to left, front to back
14 whatever, right?

15 A. Correct.

16 Q. But my point is --

17 A. Even for an inch.

18 Q. Right, if it was only an inch. But this wasn't
19 from directly behind clearly, correct, sir?

20 A. Based on the other trajectories right to left and
21 slightly downward, I would not say it was directly
22 behind him.

23 Q. And in addition you did indicate slightly downward,
24 right?

25 A. Correct.

1 Q. It would indicate to me that even if you were
2 turned that there must have been some tucking of
3 the neck, correct, to get that effect of it
4 slightly downward?

5 A. That's certainly a possibility.

6 Q. Now, you had indicated some abrasions on the knees,
7 correct, sir?

8 A. Correct.

9 Q. That could be from falling, perhaps, right?

10 A. Correct.

11 Q. That could also be possibly from crawling or being
12 dragged on your torso?

13 A. That's a possibility, yes, sir.

14 Q. Okay, and you personally are not familiar with the
15 scene, right?

16 A. No.

17 Q. Okay, so you wouldn't know whether there's heavy
18 wood chips, concrete?

19 A. I did not do the scene investigation.

20 Q. You don't know the source of the abrasions, right,
21 sir?

22 A. Correct.

23 Q. I just want to clarify. You indicated that there
24 was at least with regards to wound number three, I
25 believe it was, right, number three, clear evidence

1 of medical intervention, right, sir?

2 A. That's correct.

3 Q. Okay, such as IV line holes, that type of thing?

4 A. Yes.

5 Q. Just one second, please.

6 Just following up the drugs or alcohol.

7 You indicated types of cocaine, sir?

8 A. No. One cocaine and then the metabolites.

9 Q. Okay, metabolites I'm not familiar with that, sir?

10 A. A metabolite is a breakdown product of cocaine as
11 it is broken in the system, and there are two
12 metabolites on our toxicology report.

13 Q. And those levels simply detect positive or
14 negative?

15 A. That's correct.

16 Q. They don't detect a numeric value?

17 A. They're given in their value but any value of
18 cocaine that reached metabolites is abnormal in the
19 body.

20 Q. Okay, that would a positive, correct, sir?

21 A. Correct.

22 MR. LANKFORD: Nothing further, thank you.

23 THE COURT: Any redirect?

24 MR. HASSINGER: Just briefly, Judge.

25 REDIRECT EXAMINATION

1 BY MR. HASSINGER:

2 Q. Doctor, I gave you a hypothetical about looking
3 back at somebody turning my head over my right
4 shoulder and if this shot number four would be
5 consistent and you said shots likely. Now, I'm
6 curious would it be more consistent instead of
7 somebody being directly behind me if it was
8 somebody seated up in the area where the deputies
9 are seated; could that be a possibility for that
10 shot?

11 A. So you're position is moving this way?

12 Q. Yes.

13 A. So your chest is facing the direction you're
14 going?

15 Q. Yes.

16 A. And you're now looking towards the deputy?

17 Q. Correct.

18 A. And the deputy fires the shot from his location?

19 Q. Exactly.

20 A. Again, I would expect the trajectory to be from
21 front to back because he's in front of you with
22 reference to the positioning of your face.

23 Q. Okay.

24 A. Okay.

25 Q. Is there a way that my face could be positioned

1 that it would be consistent?

2 A. With you moving this way?

3 Q. Correct.

4 A. If you turned your chest towards this wall, and
5 then you look the other way.

6 Q. Right.

7 A. And you look down a little bit in terms of the
8 trajectory, now that could certainly if the sheriff
9 was in the position of the shot fired, that is
10 going to enter on the right check where we would
11 expect it to be and then could move in a direction
12 towards the midline of your face.

13 Q. So basically like I'm positioned right now in the
14 courtroom?

15 A. Correct.

16 Q. Can you give us a medical opinion if any of these
17 shots are consistent with somebody being on the
18 ground laying on their back? Can you tell us if
19 there's any way medically to say if any of these
20 shots are consistent or inconsistent with someone
21 laying on the ground?

22 A. Laying on their back?

23 Q. Correct.

24 A. Because the wounds in the knee and both abdominal
25 wounds are from front to back, it would be possible

1 to be lying down on their back and have those
2 wounds. The trajectories would be a little bit
3 difficult because especially with the knee, you'd
4 have to come from a very low angle in order to make
5 that wound.

6 But because they're all front to back, if
7 a person was lying on the ground on their back,
8 those would be possible.

9 Q. So you don't believe that's possible with the
10 facial wound?

11 A. If they were truly lying on their back, even if
12 they turned their head to the left away from where
13 the wound would be coming, I'd be hard pressed to
14 say I could have a back to front trajectory in that
15 instance.

16 MR. HASSINGER: Thank you, Your Honor.

17 THE COURT: Any recross limited to what
18 was brought out on redirect?

19 MR. LANKFORD: Yes.

20 RECROSS-EXAMINATION

21 BY MR. LANKFORD:

22 Q. Briefly, the scenarios that have been spelled out
23 as far as the deputies being over there or turning,
24 these are all hypotheticals, right, sir?

25 A. Yes.

1 Q. Okay.

2 You answered the best you can given the
3 scenario that's been given to you, correct?

4 A. Correct.

5 Q. Whether that scenario is accurate or not you don't
6 know?

7 A. Absolutely.

8 Q. All right. Now, also, following up on one other
9 thing. Let's say I am laying on the ground, okay,
10 gun shot wound one, two, and three, all right, I'm
11 laying on the ground, okay, I am shot then twice in
12 the leg --

13 THE COURT: Excuse me. Counsel, your
14 hypothetical sure isn't clear to me because you
15 said let's take it you're laying on the ground and
16 you're talking about one, two, and three, and I
17 don't know what you mean by that. Does it mean
18 they've already occurred or they're about to
19 occur?

20 MR. LANKFORD: Okay, great. Point taken,
21 thank you.

22 BY MR. LANKFORD:

23 Q. I just want to preface this. The wound track on gun
24 shot wounds two and three were different
25 directions, correct? I mean, one was straight

1 through and one was more less side to side?

2 A. Gun shot two, wound number two track from front to
3 back, left to right and slightly downward.

4 Gun shot wound number three tracked from
5 front to back, left to right and is more level.

6 Q. Sure, and very distinct left to right on gun shot
7 wound number three?

8 A. A much greater left to right on gun shot wound
9 three than on gun shot wound number two, correct.

10 Q. Now, assume that I am laying on the ground when gun
11 shot wound two, three, and four are administered?

12 A. Are you on your front or on your back?

13 Q. I'm laying on my back?

14 A. You're laying on your back, okay.

15 Q. And that would be consistent, sir?

16 A. If the person was lying on their back and then gun
17 shots wound one, two, and three were administered,
18 that's a possibility, because one, two, and three
19 are from front to back.

20 Q. Okay, and in that scenario, sir, you indicated
21 these are through and through wounds, correct?

22 A. Correct.

23 Q. Meaning that a spent slug would have exited each of
24 those locations, correct?

25 A. Yes.

1 MR. LANKFORD: Nothing else. Thank you.

2 THE COURT: We thank and excuse the
3 doctor. You're free to go.

4 Ladies and gentlemen, it's time for us to
5 take our coffee break. I'm going to caution you
6 may not discuss this matter among yourselves nor
7 with anyone else. I'm going to ask you to go out
8 and have a nice coffee break and to be back at five
9 minutes to the hour by that clock. We'll rise for
10 you to go for coffee. Everyone rise.

11 Jurors are free to go for coffee be back
12 at five minutes to the hour. Spectators may not
13 leave the courtroom until after the jurors have had
14 the opportunity to leave.

15 (Jury exits courtroom at 10:40 a.m.)

16 THE COURT: Now, you may be seated. Are
17 there two witnesses yes or no?

18 MR. HASSINGER: Yes, Judge.

19 THE COURT: And Mr. Cook is going to
20 represent the guy who's in the back there or where-
21 ever he is.

22 MR. HASSINGER: He's on the second floor,
23 Mr. Crooks.

24 THE COURT: Second floor, and they'll take
25 you there back there. And we got to get a lawyer

1 to represent -- oh counsel, how are you.

2 We got a client for you. We'll tell him
3 where he is. He gets the second one. He's out in
4 the hallway with the cops. Okay. We're going to
5 take a short break. We're going to take coffee
6 break for the court reporter and myself.

7 (Court is in recess)

8 (Court reconvenes)

9 (Jury enters courtroom)

10 THE COURT: All rise for the jury. You
11 may call your next witness, counsel.

12 MR. HASSINGER: Thank you, Judge. The
13 People call Officer Carpenter.

14 THE CLERK: Raise your right hand,
15 please. Do you solemnly swear or affirm that the
16 testimony you're about to give in the matter now
17 pending before the court to be the truth under the
18 pains of penalty of perjury?

19 MR. CARPENTER: Yes.

20 THE CLERK: Thank you.

21 THE COURT: Please be seated right there.
22 I'm going to ask you to speak right into that
23 microphone.

24 Counsel, whenever you're ready.

25 MR. HASSINGER: Thank you, Your Honor.

1 OFFICER MICHAEL CARPENTER

2 was thereupon called as a witness herein and having
3 been duly sworn, was examined and testified as
4 follows:

5 DIRECT EXAMINATION

6 BY MR. HASSINGER:

7 Q. Good morning, sir. Would you please introduce
8 yourself to our jury.

9 A. Good morning, Michael Carpenter.

10 Q. Sir, how are you employed?

11 A. I'm a Detroit Police Officer.

12 Q. And what is your current assignment?

13 A. The Evidence Technician Unit.

14 Q. Were you assigned to the Evidence Technician Unit
15 back on September 6th, 2002?

16 A. Yes, I was.

17 Q. And at that time how long had you been assigned to
18 the Evidence Technician Unit?

19 A. About a year and a half at that point.

20 Q. Can you explain to the jury the job of an evidence
21 technician?

22 A. My job is to go to crime scenes or suspected crime
23 scenes and collect evidence in the form of
24 photographs, measurements, sketches or any type of
25 evidence that could be connected to the crime.

1 Q. Do you have any formal training as an evidence
2 technician, sir?

3 A. Yes.

4 Q. Can you tell us what your formal training would be?

5 A. I went through the evidence technician class with
6 the Detroit Police Department and on the job
7 training 90 days before we go out on our own.

8 Q. What does the class consist of, sir?

9 A. Photography, fingerprint techniques, any type of
10 evidence collection including fluids, photography.

11 Q. I'd like to take you back to September 6th of last
12 year. Were you called to a potential crime scene
13 some time in the early morning hours roughly
14 between six and seven a.m. over on west Buena Vista
15 and Linwood in the City of Detroit?

16 A. Yes.

17 Q. Can you tell the jury approximately when it was you
18 got that assignment?

19 A. If I look at my report I'll give you the exact
20 time.

21 Q. Would that help refresh your memory?

22 A. Yes.

23 Q. Please do.

24 A. Seven o'clock a.m.

25 Q. Do you recall to time you actually got to scene?

1 A. Seven thirty a.m.

2 Q. And what do you do when you get to that location?

3 A. I talk to the officer in charge at the scene and
4 we're guided by them about what happened and what
5 type of work they'd like done.

6 Q. What type of work were you requested to do?

7 A. To take photographs and make measurements of a
8 sketch.

9 Q. Did you, in fact, make a sketch of this crime
10 scene?

11 A. Yes.

12 Q. Did you bring that sketch with you here today?

13 A. Yes, I did.

14 MR. HASSINGER: May I approach the
15 witness, Your Honor?

16 THE COURT: Yes.

17 BY MR. HASSINGER:

18 Q. May I see the sketch you prepared, sir?

19 A. Here's a copy of it.

20 Q. Is this copy exactly as the sketch that you
21 prepared?

22 A. I've added a few measurements on it for my own, so
23 yes, it's accurate.

24 Q. And you've signed this sketch indicating it's your
25 work?

1 A. Yes.

2 MR. HASSINGER: Judge, I've previously
3 shown defense counsel what I'm going to have
4 marked as Proposed Exhibit Number Two.

5 BY MR. HASSINGER:

6 Q. Sir, I'd like to show you what's been marked
7 People's Proposed Exhibit Number Two. Sir, can you
8 identify this for me, please?

9 A. Yes, that's a blow up of sketch.

10 Q. Does it appear to be accurate except for the
11 increase in size of the sketch that you prepared?

12 A. Yes.

13 MR. HASSINGER: Judge, I'm going to move
14 for the admission of People's Proposed Exhibit
15 Number Two.

16 MR. LANKFORD: No objection, Your Honor.

17 THE COURT: It will be admitted into
18 evidence.

19 (PX #2 received into evidence)

20 MR. HASSINGER: Again, Judge, I'm going to
21 place it here on the easel in hopes that everybody
22 can see.

23 Judge, I'm going to ask you if the
24 officer can have permission to step from the stand
25 and approach the exhibit?

1 THE COURT: He may.

2 BY MR. HASSINGER:

3 Q. Officer Carpenter, come to the exhibit for us and
4 let me give you something to use as a pointer.

5 Now, one thing I want you to point out for us,
6 first, can you tell us what direction north is in
7 your sketch that you prepared?

8 A. Okay, north is down.

9 Q. So south would be up and if I'm correct, west would
10 be going to our right?

11 A. Yes.

12 Q. And east would be going to our left?

13 A. Correct.

14 Q. I just want everyone to be straight on the
15 directions here.

16 Can you indicate for us if the road Buena
17 Vista is indicated on your sketch?

18 A. That's this roadway that runs east and west.

19 Q. And how about Linwood, where is Linwood on your
20 sketch?

21 A. It's the end of the sketch, this side. This is
22 Linwood here.

23 Q. And let's start with, did you find any place in
24 this crime scene where you found what you believe
25 to be blood?

1 A. Yes.

2 Q. Can you indicate where that was, sir?

3 A. It was right under this tree here.

4 Q. And you have an arrow with blood written on your
5 sketch pointing to that area?

6 A. Correct.

7 Q. Describe that area that's by Buena Vista and what
8 you have listed there as an alley on the east side;
9 what is in that area there, sir?

10 A. A lot of vacant lots. There used to be houses in
11 this area and they've all been torn down. There's
12 vacant lots in between houses on the other side.

13 Q. Specifically in that first vacant lot you were
14 indicating where the blood was found?

15 A. Yes.

16 Q. In that square area there bounded by the fence on
17 the west side and the alley on the east side, are
18 there actually any houses in that rectangular area?

19 A. No, there isn't.

20 Q. Now, there seems to be a path that cuts through
21 that square area I just referred to. Is that
22 indicated on your diagram?

23 A. Yes, it is.

24 Q. Can you point to us and describe that for us,
25 please?

1 A. This is a trail right here, it appears that
2 pedestrians would walk down the alley and cut the
3 corner and wore a path in the grass.

4 Q. Now, you've indicated on the diagram some blood and
5 I believe you said it was by a tree; is that
6 correct?

7 A. Correct.

8 Q. How many trees are there in that rectangular vacant
9 lot with the dirt path?

10 A. Two.

11 Q. And are they both indicated by the term tree on
12 your diagram?

13 A. Yes, this round area here would be the base of the
14 tree, and this is roughly the cover of the leaves
15 overhead.

16 Q. The foliage perhaps?

17 A. Yes.

18 Q. Now, do you recall, this was September 6th, do you
19 recall what the weather was like when you went to
20 this crime scene?

21 A. Yes, it was clear, warm. I believe about 70
22 degrees according to my report.

23 Q. Now, what did you know about this alleged crime
24 when you got to the crime scene and talked to the
25 officer in charge or the police that were there?

1 What was your understanding what had occurred?

2 A. That there was a possible shooting and EMS had
3 conveyed the victim from that spot of blood under
4 the tree.

5 Q. What did you do based on understanding that there
6 was a possible shooting in that area?

7 A. I photographed the area. I made measurements. I
8 searched for evidence.

9 Q. Now, when you say search for evidence, can you tell
10 the jury what you did, please?

11 A. I searched that area hoping to find some type of
12 firearm's evidence, either shell casings or bullets
13 and I found nothing.

14 Q. Can you tell us if there was something impeding you
15 or that wasn't helping you in trying to find
16 evidence in that lot?

17 A. Well, we didn't know exactly where the shooting had
18 occurred in relation to the field. We knew it
19 happened there some where because of the
20 information we had. And the grass probably hadn't
21 been cut all year. Maybe once in the year. It was
22 tall grass. It was all bent. There was a lot of
23 debris out there. Unless we knew exactly where to
24 look it would be very difficult to find anything
25 out there.

1 Q. Where you saw the blood next to the tree, did you
2 see any evidence that anything had been dragged
3 through that area through that grass?

4 A. No.

5 Q. You took photographs of that area also?

6 A. Yes, sir.

7 Q. I want to ask you some distances in relation to the
8 sketch that you did. I see you've labeled some
9 addresses on the north side of Buena Vista. Are
10 those residences there, the three rectangular areas
11 that have numbers in them?

12 A. Yes, these would be the houses on the north side of
13 Buena Vista.

14 Q. And in your sketch how many houses do you depict
15 across from the field where the blood was located?

16 A. Four.

17 Q. Can you describe for the jury what type of housing
18 that is?

19 A. It's residential housing. I believe several of
20 them are -- I know this for sure there is more than
21 one residence. They're flats, I believe.

22 Q. Did you measure from the sidewalk on the south side
23 of Buena Vista back to where the blood was located
24 by the tree?

25 A. Yes.

1 Q. What was the distance?

2 A. From the street it's 72 feet.

3 Q. Now, from the street do you mean from the curb?

4 A. Yes, it would be the south curb of Buena Vista to the
5 blood spot.

6 Q. Can you give us an approximation of how much
7 additional distance there would be to the porch
8 area of the residences on the north side of Buena
9 Vista?

10 A. The street was approximately 30 feet wide. There
11 was another five foot berm, a six foot sidewalk,
12 and I believe 15 feet to the houses, so approximately
13 15 feet, fifty-five, 56 something like that
14 additional.

15 Q. So if it's 70 from the curb to the blood, then
16 we're talking about 120 feet approximately?

17 A. Approximately.

18 Q. Give or take?

19 A. Give or take.

20 Q. Was anything else significant to you about the
21 actual sketch that you did there?

22 A. This bicycle as depicted here in the street I
23 picked up for possible evidence.

24 Q. Okay, there was a bicycle in the street?

25 A. Yes.

1 Q. Were there any street lights that you saw along
2 Buena Vista?

3 A. Yes, this is a street light right here.

4 Q. That's basically across from the address of 2638
5 Buena Vista?

6 A. Yes.

7 Q. Why don't you resume your seat then, please.

8 Do you recall how many photographs you
9 took of the crime scene and the area around it?

10 A. I used a roll of 24.

11 MR. HASSINGER: May I approach the
12 witness, Your Honor?

13 THE COURT: Yes, you may.

14 BY MR. HASSINGER:

15 Q. Sir, I'm going to hand you an envelope and ask you
16 if you've ever seen that before, please?

17 A. Yes.

18 Q. And what is that, sir?

19 A. This is our identifier that we use to identify the
20 photos that were taken at the scene.

21 Q. Sir, I'd like to show you some photographs and ask
22 you if you've ever seen these before. Sir, I'd
23 like to show you what's been marked as People's
24 Proposed Exhibit Number Three.

25 MR. HASSINGER: Judge, I got three through

1 nine here which are photographs. And just for the
2 record, I've shown them all to defense counsel.

3 THE COURT: Thank you.

4 BY MR. HASSINGER:

5 Q. I'd like to show you what's been mark People's
6 Proposed Exhibit Number Three, can you tell what is
7 depicted in that picture?

8 A. This is the field on Buena Vista and Linwood.

9 Q. Officer, it probably would be helpful if you came
10 back up to the diagram and just show the jury where
11 you took the picture from in relation to diagram?

12 A. This picture's taken from approximately to this
13 curb line here facing this direction, facing south.

14 Q. Sir, does that photograph accurately depict the
15 location you saw back on that date?

16 A. Yes.

17 Q. I'd like to show you what's marked as People's
18 Proposed Exhibit Number Four. Can you tell me
19 what's shown in that picture?

20 A. This is a picture from within the field and
21 basically the northerly direction.

22 Q. Now, where would you be taking that picture from in
23 relation to where perhaps the blood evidence is?

24 A. In this area right here. There's a pile of
25 debris. They've probably taken a few feet away by

1 the City.

2 Q. Again, does that picture fairly and accurately
3 reflect the way the scene looked back on September
4 6th?

5 A. Yes.

6 Q. People's Proposed Exhibit Number Four, again can
7 you tell us --

8 THE COURT: Wait a minute I thought we did
9 four.

10 MR. HASSINGER: You're right, Judge, it's
11 Proposed Exhibit Number Five. Sorry.

12 BY MR. HASSINGER:

13 Q. Can you tell us what is shown in that picture?

14 A. That's another picture from in the field facing
15 across the street.

16 Q. Can you see any of the residences on the northbound
17 of Buena Vista in that picture?

18 A. Yes. You can see the edge of 2648, and you can see
19 all of 2638, and you can see all of 2626.

20 Q. Does that fairly and accurately reflect the scene
21 as you saw it back on September 6th?

22 A. Yes.

23 Q. Proposed Exhibit Number Six, can you tell us what
24 that is, sir?

25 A. That's a close-up of the suspended blood by the

1 tree.

2 Q. And does that picture fairly and accurately reflect
3 what you saw back on September 6th?

4 A. Yes.

5 Q. Proposed Exhibit Number Seven, sir, can you tell us
6 what's in that photograph?

7 A. That's a picture facing southeast.

8 Q. And where did you take that photo from?

9 A. This side of the trail. You can see --

10 THE COURT: Excuse me, we couldn't
11 understand you.

12 THE WITNESS: I'm sorry. It's a picture
13 from back in --

14 THE COURT: Remember, they're just as
15 important as we are.

16 THE WITNESS: It's a picture from in front
17 of the tree in this direction. You can see the
18 trail running across from at the front of the
19 picture.

20 BY MR. HASSINGER:

21 Q. Can you see any of the residences in that
22 photograph?

23 A. Yes, you can see 2626 Buena Vista.

24 Q. Does that photograph fairly and accurately depict
25 the scene you saw back on September 6th?

1 A. Yes.

2 Q. I'd like to show you Proposed Exhibit Number Eight,
3 sir, can you tell us about that photo?

4 A. This is a picture of the field from within the
5 street. I was standing in the street facing south
6 towards the two trees.

7 Q. Could you point approximately where in the street
8 you would have been, what address would you have
9 been closest to?

10 A. I was standing across from 2638 approximately
11 because you can see the bicycle in the picture and
12 the tree. You can just barely see the edge of this
13 pole.

14 Q. And that's the pole with the public light fixture?

15 A. Correct.

16 Q. And then finally, sir, Proposed Exhibit Number
17 9, can you tell me what's in that picture?

18 A. This is a picture facing northbound from within the
19 field. That was approximately in front of the
20 trees and you can see 2638 and 2648 and the very
21 edge of 2626 in the picture and the bicycle in the
22 street.

23 Q. Does this photo accurately reflect the scene you
24 saw back on that day?

25 A. Yes.

1 MR. HASSINGER: Judge, at this time move
2 for admission of Proposed Exhibits 3 through 9.

3 MR. LANKFORD: No, objection, Your Honor.

4 THE COURT: They will be admitted into
5 evidence.

6 (PX #1-9 received into evidence)

7 MR. HASSINGER: Judge, may they be
8 published to the jury?

9 THE COURT: Yes.

10 MR. HASSINGER: Judge, can you explain to
11 the jury that they may pass the pictures around?

12 THE COURT: Yes. Ladies and gentlemen,
13 when he says published them what he means for you
14 to do is if you take a look at the first one and
15 pass it down so that the others will then pass it
16 all the way through until it get up to our juror
17 who is in seat 14 and then she'll hand them to the
18 prosecutor.

19 MR. HASSINGER: Thank you, Your Honor.

20 BY MR. HASSINGER:

21 Q. So Officer Carpenter --

22 THE COURT: Wait.

23 MR. HASSINGER: I'm Sorry, Judge.

24 THE COURT: You can't do two things at
25 once.

1 MR. HASSINGER: That's true, Judge, sorry.

2 BY MR. HASSINGER:

3 Q. Officer Carpenter, besides preparing this sketch,
4 taking the measurements and the photographs, is
5 there anything else significant about the evidence
6 tech work you did back on this day?

7 A. No.

8 Q. One final question. I asked you if there was any
9 evidence of anything being dragged back by where
10 you found that blood area?

11 A. Yes.

12 Q. Did you see any trail of any type of blood back
13 there in that area?

14 A. No.

15 MR. HASSINGER: Thank you, Your Honor.

16 THE COURT: Cross-examination.

17 MR. LANKFORD: Thank you.

18 CROSS-EXAMINATION

19 BY MR. LANKFORD:

20 Q. Good morning, officer Carpenter?

21 A. Good morning.

22 Q. Sir, may I see the photographs?

23 A. Absolutely.

24 Q. You do realize that this was an overgrown field,
25 right, sir?

1 A. Yes, sir.

2 Q. It was poorly tended, would that be fair?

3 A. Yes, sir.

4 Q. And then much of that is depicted in these
5 photographs, right?

6 A. Yes, sir.

7 Q. However, and you were unable to find any casings or
8 slugs, would that be fair?

9 A. Yes, sir.

10 Q. Would it also be fair to say though that you do
11 look, don't you, sir?

12 A. Yes, sir.

13 Q. Okay.

14 And an alleged slug itself may be the
15 size of the last portion of your finger, correct?

16 A. Yes, sir, depending on the caliber.

17 Q. Right, and a casing may be more like at least
18 length-wise two thirds of your little finger, would
19 that be fair?

20 A. It depends on the caliber.

21 Q. Okay.

22 And you are, Officer Carpenter, you are a
23 badged officer, correct?

24 A. Yes, sir.

25 Q. You are not a civilian employee, correct?

1 A. Correct.

2 Q. You carry a firearm?

3 A. Yes, sir.

4 Q. You're familiar with a revolver, right, sir?

5 A. Yes, sir.

6 Q. And a revolver, I take it just so I'm sure, would
7 be one of those little things like the old westerns
8 with the six shooter, the round cylinder that you
9 can see?

10 A. Correct.

11 Q. And that type of weapon, would it be fair to say,
12 once the round is discharged that the casing
13 remains in the cylinder?

14 A. Yes, sir.

15 Q. Okay.

16 You are also familiar with the concept of
17 the semiautomatic?

18 A. Yes, sir.

19 Q. That's probably what you carry, right?

20 A. Yes.

21 Q. Okay.

22 A semiautomatic doesn't have that
23 cylinder, correct?

24 A. Correct.

25 Q. The feed into the fire mechanism is by way of a

1 magazine or a clip?

2 A. Correct.

Q. Usually in the butt end of the gun, right?

4 A. Yes, sir.

5 Q. Okay.

When those are fired, when a semi is
fired, there's an ejection port, isn't there?

8 A. Yes, sir.

9 0. Typically to the right, correct?

10 A. Typically.

11 Q. Okay.

12 Meaning that when a firearm, a
13 semiautomatic pistol is fired, the bullet comes
14 down the barrel and the casing kicks off to the
15 side, right?

16 A. It kicks out of the weapon either the side or
17 behind.

18 Q. But a casing itself unlike with a revolver kicks
19 out doesn't it?

30 A Yes sir

Q. And these are brass type of metal, at this point, hollow, right?

23 A. Normally they're brass. It could be aluminum or
14

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1 And despite looking, you did not find any
2 casing or slug?

3 A. No, sir.

4 Q. Okay, I want to go through these photos kind of one
5 at a time.

6 MR. LANKFORD: If I may approach, Your
7 Honor?

8 THE COURT: You may.

9 BY MR. LANKFORD:

10 Q. Okay, sir, the first one I want to show you it's
11 not necessarily the sequence. The first one, sir,
12 that's People's now Exhibit Number Eight; is that
13 correct?

14 A. Correct.

15 Q. You indicated that is the street that's on Buena
16 Vista facing south into the field, would that be
17 fair?

18 A. Yes.

19 Q. Okay, that does show two trees, right?

20 A. Yes, sir.

21 Q. The one furthest to the right would be the one in
22 which you found blood drops; would that be fair?

23 A. Yes, sir.

24 Q. I take it Mr. Thomas' body had been removed by
25 other personnel by the time you arrived?

1 A. Yes, sir.

2 Q. Was there however a crime scene set up by other
3 members of the police department? In other words,
4 you tape it off so civilians don't come traipsing
5 through and knocking things around?

6 A. It wasn't tapped off, but there were officers out
7 there.

8 Q. Okay, to prevent, again, anybody from coming or
9 going that didn't belong out there, right?

10 A. Yes, sir.

11 Q. Okay.

12 So let's assume the shooting occurred at
13 five and you got the call around seven, and arrived
14 shortly after, right?

15 A. Yes, sir.

16 Q. And when you arrive, the police have secured the
17 scene, correct?

18 A. Yes.

19 Q. It wasn't like when you came out there was nobody
20 out there or anything like that, right?

21 A. Correct.

22 Q. Now, when you look at that, sir, you can see the
23 bike, correct?

24 A. Yes, sir.

25 Q. I take it that the pole that you described, the

1 light pole, would have been to your left in that
2 photograph?

3 A. Yes, sir.

4 Q. And the debris pile that you described would have
5 been to your right, slightly to your right?

6 A. Yes, sir.

7 Q. Are either one of those visible in that photograph?

8 A. You can just barely see the edge of the street
9 corner.

10 Q. When you arrived it was light outside, correct,
11 sir?

12 A. Yes, sir.

13 Q. The lighting condition -- whether that light was
14 actually on or not, okay, at some point earlier you
15 wouldn't know, would you?

16 A. No, sir.

17 Q. Now, looking at those they show two trees. Let's
18 take a look at those. Do you know what I mean
19 deciduous or evergreen type trees?

20 A. Yes.

21 Q. Do those appear to be evergreen type trees?

22 A. No.

23 Q. There's some brownish back towards the back that
24 looks like something that's been --

25 A. I think that's in the alley.

1 Q. Okay, but that is clearly visible, isn't it?

2 A. Yes.

3 Q. Okay.

4 On September 6th, these trees are in full
5 foliage, aren't they?

6 A. Yes.

7 Q. I mean, it's not like you know now where they're
8 baring, right?

9 A. Correct.

10 Q. These trees, the leaves of these trees extend down
11 to -- you know, the one tree extends basically to
12 the ground, correct?

13 A. Yes, sir.

14 Q. And on the other one, the one to the right still
15 appears to be coming down to like chest level or
16 belt level or something like that?

17 A. Yes.

18 Q. Do you think that's fair?

19 A. Yes, sir.

20 Q. Okay, thank you.

21 Okay, sir, Number Nine, that's northbound
22 from the field, I take it?

23 A. Yes.

24 Q. And you can see, again, you can see the debris pile
25 clearly, correct?

1 A. Yes, sir.

2 Q. On the left side, right?

3 A. Yes, sir.

4 Q. The pole clearly on the right side?

5 A. Yes, sir.

6 Q. The bike, at least to me, is entirely visible but

7 it would be between the two of those?

8 A. Yes, sir.

9 Q. And you're able to see certain buildings, right?

10 A. Yes.

11 Q. Older, what might be flat buildings?

12 A. Yes, sir.

13 Q. The one furthest to the left being 2648?

14 A. 2648.

15 Q. Okay, and then one in the middle, 2638?

16 A. Correct.

17 Q. And then a gap, correct?

18 A. Correct.

19 Q. Then 2626, right?

20 A. Correct.

21 Q. And I'm sorry, and all these photos were, in fact,

22 taken on the day that you went out there initially,

23 right?

24 A. Yes, sir.

25 Q. All right. Sir, seven is simply facing southeast,

1 correct?

2 A. Yes.

3 Q. Diagonally across what would be the path, right?

4 A. Correct.

5 Q. And you can see 2626 in that, right?

6 A. Yes.

7 Q. And in effect this photo does depict a marked
8 Detroit police squad car, right?

9 A. Yes.

10 Q. Number six, sir, is simply a limited amount of
11 blood drops, right?

12 A. Yes.

13 Q. We take it you were focused on that area as far as
14 your search for any casings or slugs?

15 A. That was one of the areas I searched, yes.

16 Q. Sure, that would be indicative of something had
17 been there shortly, right?

18 A. Yes, sir.

19 Q. And the blood in this is still red, correct?

20 A. Yes.

21 Q. As opposed to brown or anything like that?

22 A. Correct.

23 Q. This is a fair and accurate depiction of the ground
24 covered, sir?

25 A. Yes.

1 Q. Five is more less at a slightly different angle I
2 take it facing southeast?

3 A. Yes.

4 Q. Okay.

5 Again, four would basically be number
6 nine only a slightly different angle?

7 A. Correct.

8 Q. Now, I want you to take a look also at -- and
9 again, the debris pile is very prominent there,
10 very clear, isn't it, sir?

11 A. Yes, sir.

12 Q. And it appears that -- I mean, you come you out
13 there in the early morning hours, right?

14 A. Yes.

15 Q. That pile is already there when you come out?

16 A. Yes, sir.

17 Q. And last but not least with regards to the photos,
18 Officer Carpenter, Number Three, I take it you are
19 on the south street and the residences are looking
20 at you, right?

21 A. I think I was standing right at the curb as you can
22 see the top half of the garbage can, so I was
23 standing -- and you can see the garbage can in some
24 of the other photos, so I was probably standing at
25 the curb line.

1 Q. Okay.

2 So you are on the north side of Buena
3 Vista looking south into the field, right?

4 A. Correct.

5 Q. And again that depicts the two trees, right?

6 A. Yes.

7 Q. In close proximity of one another?

8 A. Yes, sir.

9 Q. Full foliage?

10 A. Yes.

11 Q. And when you look into that, can you see buildings
12 that would be on the south side of either the alley
13 or perhaps they would be facing the next street
14 south?

15 A. Yes.

16 Q. And there are clearly apartments, homes, whatever
17 type of things on either side of that tree,
18 correct?

19 A. Yes, sir.

20 Q. And whether or not -- does that show whether
21 there's one perhaps behind those trees, directly
22 behind those trees?

23 A. It's hard to tell.

24 Q. Okay, thank you.

25 Okay, and frankly I just want to follow

1 up on -- let me get the directions right, I'm
2 sorry. Okay. The houses are on the north of Buena
3 Vista?

4 A. Yes.

5 Q. Let's say the one that seem to be most directly
6 across to the tree that would be on the western
7 side, correct, sir?

8 A. Yes, it's to the western side.

9 Q. Okay.

10 And that address would probably be 2638,
11 I take it, it would be the one most direct?

12 A. It's pretty close between the two but according to
13 the sketch, the sketch is fairly accurate.

14 Q. Okay.

15 And you indicated that from those porches
16 or that porch to the tree is where I take it when
17 you found the blood droplets that are depicted?

18 A. Yes.

19 Q. Would be somewhere in the neighborhood of 125 feet?

20 A. Yes.

21 Q. Roughly half the length of a football field?

22 A. Yes.

23 MR. LANKFORD: Okay, thank you. Nothing
24 else.

25 THE COURT: Any redirect?

1 MR. HASSINGER: No, your Honor.

2 THE COURT: We thank and excuse the
3 witness. You're free to go.

4 THE WITNESS: Thank you, Your Honor.

5 THE COURT: Are you ready to call your
6 next witness?

7 MR. HASSINGER: Yes the People call
8 Lavero Crooks.

9 THE CLERK: Raise your right hand,
10 please. Do you solemnly swear or affirm that the
11 testimony you're about to give in the matter now
12 pending before the court to be the truth under the
13 pains of penalty of perjury?

14 MR. CROOKS: Yes, ma'am.

15 THE CLERK: Thank you.

16 THE COURT: Please be seated there.
17 Counsel would you please identify yourself for the
18 record?

19 MR. COOK: For the record, Your Honor, my
20 name is Donald Crook.

21 THE COURT: Representing?

22 MR. COOK: Your Honor, representing the
23 witness in this matter.

24 THE COURT: Thank you. Go ahead, counsel.

25 MR. HASSINGER: Thank you, Your Honor.

LAVERO CROOKS

was thereupon called as a witness herein and having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HASSINGER:

Q. Good morning, sir, would you please state your name?

A. My name, Lavero Crooks.

Q. How old are you, Mr. Crooks?

A. I'm 25.

Q. Mr. Crooks, I'd like to take you back to
September 6th of 2002?

A. All right.

Q. Back on that date around five in the morning, did you happen to be in the area of Linwood and Buena Vista in the city of Detroit?

A. Yes, sir.

Q. And can you tell us what you were doing at that time in that area?

A. I was hustling.

Q What do you mean by hustling?

A. I was selling drugs.

Q. Okay.

Where were you located, where were you

1 physically at?

2 A. Buena Vista off Linwood like maybe three houses off
3 Linwood.

4 Q. Were you actually on Buena Vista?

5 A. Yes.

6 Q. And were you standing on the street?

7 A. No, I was sitting in my car.

8 Q. What kind of car did you have then?

9 A. '84 Cutlass.

10 Q. Do you recall which way your car was pointed on
11 Buena Vista?

12 A. Facing Linwood.

13 Q. Facing Linwood. Okay.

14 And do you recall were you on the side of
15 the vacant field or on the side of the houses?

16 A. I was on the side of the vacant field.

17 MR. HASSINGER: Judge, may I have the
18 witness step down and look at the diagram that we
19 have here?

20 THE COURT: Yes.

21 BY MR. HASSINGER:

22 Q. Mr. Crooks, I want you to step down from the
23 witness stand and look at this diagram that's been
24 admitted as an exhibit. Okay. You can we got Buena
25 Vista running this way. Okay. Here's Linwood.

1 Okay. This is that vacant lot?

2 A. I'm right here.

3 Q. There's a street light --

4 THE COURT: I'm going to ask you have him
5 stand kind of over to the side because the jurors
6 who may be looking into his back and not see.

7 MR. HASSINGER: I'm sorry, Judge.

8 THE COURT: Go ahead.

9 BY MR. HASSINGER:

10 Q. All these jurors need to be able to see where
11 you're pointing here. Why don't you use my pen and
12 use it as a pointer. Okay, point to where your car
13 was situated?

14 A. This is Linwood and this is Buena Vista. There's a
15 vacant lot, okay, well, first, it's like a parking
16 lot, then it's an alley, then it's a vacant lot,
17 then it's a house. I'm right here. Then it's
18 another house, then it's another vacant lot.

19 Q. Where were you parked?

20 A. In front of the house after the vacant lot.

21 Q. Okay, have a seat, please.

22 Can you recall at all how long you had
23 been parked in that area?

24 A. The whole day.

25 Q. The whole day you had been there? When did you get

1 there?

2 A. I spent the night over there that night.

3 Q. In your car?

4 A. No, in the house across from the field.

5 Q. That's what I'm trying to get to though is how long
6 were you sitting there in your car?

7 A. For the whole night.

8 Q. Do you know the defendant in this case Mr. Michon
9 Houston?

10 A. Yes, I do.

11 Q. How do you know him?

12 A. He used to be my friend.

13 Q. Do you see him here in court today?

14 A. Yes, I do.

15 Q. Would you point to him and tell us what he's
16 wearing today, please?

17 A. He's wearing a black shirt and tan slacks.

18 MR. HASSINGER: Judge, I'd like the record
19 to reflect he's pointed to and identified the
20 Defendant Mr. Michon Houston.

21 THE COURT: All right.

22 BY MR. HASSINGER:

23 Q. How long have you known Mr. Houston?

24 A. Since July last year.

25 Q. July of 2002?

1 A. Yes.

2 Q. Did see him around five in the a.m. back on
3 September 6th of last year?

4 A. Yes.

5 Q. When was it you first saw Mr. Houston?

6 A. I seen him from earlier that afternoon on to the
7 night.

8 Q. Where was he around five in the a.m.?

9 A. On the porch that I spent the night in on Buena
10 Vista.

11 Q. The house that you spent the night in where is it
12 in relationship to that vacant field with the path
13 that cuts through it?

14 A. Right across the street.

15 Q. Was anyone with Mr. Houston when you first saw him
16 on that porch?

17 A. His girl and his home-boy, JW.

18 Q. Do you know what his girlfriend's name is?

19 A. I just know her by Powder.

20 Q. You know her as Powder?

21 A. (No response)

22 Q. You have to say yes or no?

23 A. Yes.

24 Q. Can you describe her for us?

25 A. She's a short white girl.

1 Q. The person you refer to is JW, you know him by any
2 other name?

3 A. Not that I can remember, no.

4 Q. You see the three of them on a porch across from
5 the vacant field that the path cuts across?

6 A. Uh-huh.

7 THE COURT: Does that mean yes?

8 THE WITNESS: Yes. That's the porch we
9 grind on.

10 BY MR. HASSINGER:

11 Q. What do mean by grind?

12 A. Do our hustling.

13 Q. That's the house you guys been dealing drugs from?

14 A. Yeah.

15 Q. Did something unusual happen around that time?

16 A. An argument started out in the field. Sean went
17 into the house. Sean came out of the house fired a
18 round. Ran into the field. The dude was laying in
19 the field. He said, "Dude, I shot that nigga in his
20 face the first time."

21 Q. Let me stop you for a minute. The person who got
22 shot, when do you first see that person?

23 A. When he was coming through the field.

24 Q. Now, you saw our diagram there when you stepped
25 down, right? Did you see the diagram?

1 A. I seen the board, yeah.

2 Q. Okay.

3 And did you see on that diagram where the
4 victim who got shot was coming from?

5 A. He came like towards off Glendale.

6 Q. There's a dirt path in that field, right?

7 A. It comes from Glendale, Linwood way.

8 Q. Okay, is that where you first saw that person?

9 A. Yeah.

10 Q. Was that person on foot walking?

11 A. Yeah.

12 Q. Okay.

13 Do you hear anybody yell anything to that
14 person when you first noticed him?

15 A. Normally people race up to them.

16 MR. LANKFORD: Objection, he was asked a
17 specific question.

18 THE COURT: Sustained.

19 MR. LANKFORD: Thank you.

20 BY MR. HASSINGER:

21 Q. Specifically with regards to this situation, did
22 you hear any words spoken, if you can recall?

23 A. Somewhat -- I mean, I don't know how to answer it
24 because I don't know everything that was said, but
25 I know bits and pieces of things that was said that

1 I could hear.

2 Q. What could you hear?

3 A. I know he hang and cops from JW. And he didn't
4 want to deal with Sean. His girl asked about a
5 coat and Sean thought that he was being the way he
6 was --

7 MR. LANKFORD: Objection, he can't read
8 his mind.

9 THE COURT: He's saying you can't tell
10 what was in someone else's mind.

11 BY MR. HASSINGER:

12 Q. Let's back up for a minute.

13 THE WITNESS: Can I ask you something,
14 Judge?

15 THE COURT: No.

16 BY MR. HASSINGER:

17 Q. Okay.

18 When you first observed Sean, he's on the
19 porch, right?

20 A. Can I just reword it, how 'bout that?

21 Q. You have to answer the question.

22 A. I'm going to answer it, but I'm going to answer it
23 in a different way.

24 Q. Okay.

25 A. Okay.

MR. LANKFORD: Sorry, what was the question again, Mr. Hassinger?

MR. HASSINGER: When he first saw Sean was
on the -- Mr. Houston who was on the porch.

THE WITNESS: Okay, you asked me what did I hear?

BY MR. HASSINGER:

Q. We moved on now though.

A. Oh, okay.

Q. When you first see Mr. Houston, he's on the porch; is that correct?

A. Yes, sir.

Q. Okay, does Mr. Houston leave the porch?

A. Yes, sir.

Q. Where does he go?

A. To the field.

Q. Is he going in the direction of the victim who gets shot?

A. Yes, sir.

Q. From where you're at in your car can you hear if Mr. Houston say anything to the victim who gets shot?

A. Yes, sir.

Q. What can you hear?

25 A. I can you hear, "Oh, you ain't gonna deal with me,

1 this is my block."

2 Q. That's what Mr. Houston says to the victim?

3 A. Yes, sir.

4 Q. Okay.

5 Do you hear if the victim says anything
6 in return?

7 A. I can deal with who I want to.

8 Q. He says he can deal with who he wants to; is that
9 correct?

10 A. Yes, sir.

11 Q. Okay.

12 What does Mr. Houston do after that is
13 said to him by the victim?

14 A. Mr. Houston goes across to the house, goes in the
15 house and gets his gun and comes out and fires a
16 round.

17 Q. Let me stop you there for a minute. Does Mr.
18 Houston go back in the house, the same house he's
19 been on the porch?

20 A. Yes, sir.

21 Q. When he comes out of the house, can you see a gun?

22 A. Yes, sir.

23 Q. And this a long gun; what type of gun is it, do you
24 know?

25 A. It was a 40 cal.

1 Q. 40 caliber?

2 A. Yes, sir.

3 Q. Now, you testify you see Mr. Houston fire a shot?

4 A. Yes, sir.

5 Q. Where is he when he fires the first shot?

6 A. Coming off the porch.

7 Q. What happens to the victim at that time?

8 A. He falls in the grass.

9 Q. Now, are there a couple of big trees there in that
10 field towards the back?

11 A. There's two trees.

12 Q. Can you tell us where the victim falls in
13 relationship to those trees?

14 A. He falls on the outside on the first tree close to
15 the lot. There's another lot it goes on Glendale.

16 Q. And he falls by one of the trees?

17 A. Near the first tree.

18 Q. What does Mr. Houston do when the victim falls to
19 the ground?

20 A. He goes over and he kicks him over on his back.

21 Q. He has to move him over to get him on his back?

22 A. Yeah, he had to roll him over.

23 Q. So how did the victim land initially?

24 A. On his stomach. The victim went to run but the
25 bullet hit him, and he rolled him over.

1 Q. So when Mr. Houston rolls the victim over, the
2 victim is now on his back?

3 A. Yes, sir.

4 Q. Do you hear Mr. Houston say anything at that time?

5 A. He say, "Damn, dog, I shot that nigga in his face,
6 first shot."

7 Q. What happens next?

8 A. He searched his pockets. I began to pull off. He
9 started firing some more shots into him. I left, I
10 left.

11 Q. But before you leave you see more shots fired?

12 A. Yes, sir.

13 Q. And this was after Mr. Houston has flipped the
14 victim over on his back?

15 A. Yes, sir.

16 Q. Can you give the jury any idea of how many more
17 shots were fired once the victim is flipped over?

18 A. The way I looked at it he fired the rest of the
19 shots. He was looking at the gun because the gun
20 was shooting on him.

21 Q. Was it more than one shot?

22 A. Yes, sir.

23 Q. Do you leave at that time?

24 A. Yes, sir.

25 Q. Where do you go?

1 A. I had a young lady that was in the car with me. I
2 had to take her to Taylor and then Linwood. Then I
3 took her home because she had, you know, witnessed
4 it also, and she was ready to go.

5 Q. Now, you've known Mr. Houston since July of 2002?

6 A. Yep.

7 Q. And you said at least at one point you were
8 friends?

9 A. Yes, sir.

10 Q. When did that all end?

11 A. I don't remember exact, but one day I was smoking
12 on the block and I fell asleep.

13 MR. LANKFORD: Objection.

14 THE COURT: Basis of the objection?

15 MR. LANKFORD: This leads in an irrelevant
16 area, Your Honor.

17 THE COURT: Well, no, I thought it would
18 go for the reason for him to testify. I'll
19 overrule the objection.

20 BY MR. HASSINGER:

21 Q. First, sir, just to get a time frame. I asked you
22 when did your friendship with Mr. Houston end? On
23 the date of this shooting, on September 6th, 2002,
24 did you consider Mr. Houston your friend?

25 A. Yes, sir.

1 Q. Did there come a time in November of 2002 when your
2 friendship came to an end?

3 A. Yes, sir.

4 Q. Why did it come to an end?

5 A. Sir, I woke up in my car about 10:30, eleven and I
6 had a pistol grip pumped to my head with Sean
7 telling me if pull off, try to pull off he'll kill
8 me, and you don't run this block. This is my
9 block. And the only thing I can ask him is why. I
10 ain't done knowing to you. What's wrong with you.
11 So his cousin grabbed the gun. That's the only
12 reason he didn't shoot.

13 MR. LANKFORD: Objection, now we're
14 getting irrelevant, Judge.

15 THE COURT: Sustain, it's stricken. The
16 jury's told to disregard it.

17 BY MR. HASSINGER:

18 Q. So some time in November Mr. Houston comes at you
19 with some type of weapon?

20 A. Yes, sir.

21 Q. Are you able to get away from Mr. Houston at that
22 time?

23 A. Yes, sir.

24 Q. Do you report that to the police?

25 A. Yes, sir.

1 Q. I'd like to draw your attention to November 9th of
2 last year, 2002. Back on that date did you meet
3 with Detroit Police Officers Moss and Adams?

4 A. They came to my house, sir.

5 Q. And did you talk with them? Don't tell us what you
6 talked about, but did you talk with them?

7 A. Yes, sir.

8 Q. Did you indicate to them that you knew where Mr.
9 Houston was?

10 A. Yes, sir.

11 Q. And specifically did you formulate a plan with
12 those two officers to try get Mr. Houston under
13 arrest?

14 A. Yes, sir.

15 Q. What was the plan?

16 A. I told them if I rode through there with my music
17 on he would run out with a gun shooting.

18 Q. What area were you referring to?

19 A. Buena Vista and Linwood.

20 Q. Buena Vista and Linwood?

21 A. Yes, sir.

22 Q. How was it you knew Mr. Houston was in that area?

23 A. Because we grind there every day.

24 Q. So the plan is if you drive -- I'm sorry, strike
25 that.

What kind of car did you drive?

2 A. An '84 Cutlass.

3 Q. How long had you been driving that vehicle?

4 A. Maybe two and a half, three months before that
5 happened.

6 Q. Is it fair to say everybody knew that was your car?

7 A. Yes, sir.

8 | Q. Okay.

13 A. Yes, sir.

14 Q. What happened?

15 A. When I pulled my car at a lot and parked it Sean
16 and his cousin came to the porch.

17 Q. Do you know what address they were at?

18 A. No, sir, the house before the field. It's like the
19 field, the house, and then there's a four-family
20 flat. He was at the four-family.

21 Q. Do you know if this is on the north or the south
22 side of Buena Vista?

23 A. I don't understand. It's the same -- it's the one
24 from where the killing happened.

Q. Is it on the same side of the road of the house

1 that you guys grind out of?

2 A. No, sir.

3 Q. It's on the opposite side?

4 A. Yes, sir.

5 Q. So it's farther from Linwood than the vacant field;
6 is that correct?

7 A. Yes, sir.

8 Q. Okay.

9 What do you do when you see Mr. Houston
10 come out of that house?

11 A. I point him out. I say there he go there.

12 Q. Where are Officers Adams and Moss?

13 A. I don't know exactly, but it was a lot of police
14 every where. They just came out of every where.

15 Q. So you point out Mr. Houston to the police?

16 A. Yes, sir.

17 Q. What do you see Mr. Houston do?

18 A. He ran back in the house and barricaded himself.

19 Q. Do you stay at that location or do you leave?

20 A. I stay.

21 Q. What did the police do?

22 A. Search the house that they could go in.

23 MR. LANKFORD: Objection, what's his
24 personal knowledge, Your Honor?

25 THE COURT: I thought he said he was

1 there, so you mean what did you see the police do?

2 MR. HASSINGER: Yes.

3 THE COURT: Rephrase your question then.

4 BY MR. HASSINGER:

5 Q. What do you see the police do?

6 A. I see him search the houses because it's a
7 four-family flat. Yet they wasn't available to
8 search and we waited for the landlord, then they
9 went in the other house and that's where they found
10 him.

11 Q. So you're saying that the address that Mr. Houston
12 fled into is a four-family flat?

13 A. Yes, sir.

14 Q. They searched some of the units, but had to wait
15 for the landlord to search one of the others?

16 A. Yes, sir.

17 Q. Eventually do you see the police bring Mr. Houston
18 out of that four-family flat?

19 A. Yes, sir.

20 Q. Two days later on November 11th, do you end up over
21 at 1300 Beaubien Police Headquarters?

22 A. Yes, sir.

23 Q. And are you asked to give a statement about this
24 shooting?

25 A. Yes, sir.

1 Q. Do you cooperate with the police?

2 A. Yes, sir.

3 Q. Sir, what's the reason why you waited until
4 November to cooperate with the police about this
5 shooting that occurred in the vacant field?

6 A. Because I had been confronted a couple of times by
7 investigators about it. And then I thought there
8 was a point where I held myself for me trying to
9 kill him to putting a gun to my head.

10 Q. Have you been promised anything to testify in this
11 particular case, sir?

12 A. No, sir.

13 Q. Did you ever meet myself before today?

14 A. No, sir.

15 Q. Are you testifying here today on your own free
16 will?

17 A. Yes, sir.

18 Q. In the last 10 years have you been convicted of any
19 crime involving theft or dishonesty?

20 A. No, sir.

21 Q. If the defendant hadn't put that gun to your
22 head --

23 THE COURT: Speculation.

24 BY MR. HASSINGER:

25 Q. Is it fair to say you're here today because the

1 defendant put that gun to your head?

2 A. No, sir.

3 Q. Why not?

4 A. Because I had left when he put the gun to my head,
5 I had charges for that, but I left it alone and
6 dropped the charges because I felt like I couldn't
7 take a man's freedom. But then after I was being
8 questioned about the murder I felt bad because a
9 person life was taken and I knew what happened and
10 I was there even though I didn't have anything to
11 do with it.

12 So if it would make me rest easy because
13 I was put in that predicament I could have been him
14 for getting killed, you know, so I call myself
15 changing my life so I thought I'd just be honest
16 about it.

17 MR. HASSINGER: Thank you, Your Honor.

18 THE COURT: Counsel, we're going to have
19 to stop at 12:15 because I promised some lawyers
20 I'd handled some matters and I know your
21 cross-examination will not be short. Therefore,
22 we're going to allow the jury for their luncheon
23 for recess.

24 I want to warn you about Greek Town.

25 They give you a lot of food. It's very good. Try

1 to eat lightly enough so when you come back this
2 afternoon you'll be able to keep awake and listen
3 to the testimony.

4 We'll start again in this matter at
5 1:30. We'll rise for the jury to go to lunch.
6 Everyone rise. Jurors are free to get their things
7 to go to lunch.

8 (Jury exits courtroom)

9 THE COURT: You may be seated. Counsel, I
10 saw somebody that I used to work over from your
11 office bring you a check for \$250, right?

12 MR. LANKFORD: Whatever the amount,
13 Judge.

14 THE COURT: Okay.

15 MR. LANKFORD: We'd like to know just for
16 the record, I mean, this court had put us on notice
17 I do think for eight minutes and \$250 is a little
18 high but it's not --

19 THE COURT: No, no, you know the reason
20 it's \$250, that way people can't say well, if I'm
21 only two minutes late I only have to pay \$100. If
22 I'm five minutes late I have to pay -- it's \$250
23 you got to be here on time.

24 MR. LANKFORD: And just for the record and
25 I do understand, and I think the reason that the

1 office is paying as opposed to me is that I also
2 had to cover a sentencing in the basement. And I
3 ran a few minutes late and as I say I think the
4 amount is high for the length of infraction.

5 THE COURT: Let me explain to you why it's
6 not high. You see, when I let you come back two,
7 three, four, five, six, seven, eight, minutes late,
8 those 14 people over there instead of coming back
9 when I tell them to, and then it's she doesn't
10 start on time, why in the world should I be there.
11 This morning they were all here at 9:00 o'clock
12 because I explain to them what I do. They were all
13 here at 9:00 o'clock.

14 But because they had witness problems,
15 they didn't get to come out here, because I have it
16 in my notes, they didn't come out here until 9:15.
17 So that sets the first time. The next time I let
18 them go for a coffee break and I don't start on
19 time, I'm eight minutes late. The next time they
20 go to lunch, well, Judge Jones said come back at
21 1:30, but we don't have to do that. So that's why
22 it's \$250.

23 I wish I could make it more, then I could
24 give an increment. You're ten minutes late, it's
25 \$250. You're 20 minutes late, it's \$500, so I

1 think \$250 is enough to get lawyers here on time,
2 don't you?

3 MR. LANKFORD: Well, and again, as the
4 court may or may not know, I was here before 9:00
5 and I'm not making excuses, a simple explanation, I
6 got tied up down the hall on a sentencing I was
7 assigned.

8 THE COURT: I'm very selfish. I don't
9 care. I got 14 citizens here, voters I hope, and
10 so I want them to see that we run this court
11 efficiently and your office is going to have to
12 assign other people to handle other matters when
13 you're in trial here. Write your check for \$250.
14 Thank you very much.

15 MR. LANKFORD: Judge, it's already
16 written.

17 THE COURT: Okay, and he can go back and
18 we'll start in this matter at 1:30.

19 MR. LANKFORD: Payable to who?

20 THE COURT: It's made to the court, isn't
21 it? We'll have to call upstairs and find out.

22 MR. LANKFORD: Okay, well, Judge, I have
23 it, but it just doesn't have the payee.

24 THE COURT: Okay, you can give it to
25 Marylyn because it doesn't have the payee. She'll

1 have them put in the right payee.

2 All rise for the jury.

3 (Jury enters courtroom at 1:30 p.m.)

4 THE COURT: Go ahead, counsel.

5 CROSS-EXAMINATION

6 BY MR. LANKFORD:

7 Q. Good afternoon, Mr. Crooks.

8 THE COURT: I couldn't hear you.

9 THE WITNESS: I said good afternoon.

10 THE COURT: Thank you.

11 BY MR. LANKFORD:

12 Q. Sir, you were -- sorry, do you know Jovan Johnson?

13 A. Yes, sir.

14 Q. J-W?

15 A. Yes, sir.

16 Q. You too have a nickname, don't you, sir?

17 A. Yes, sir.

18 Q. Country?

19 A. Yes, sir.

20 Q. Okay.

21 And now, I think the last series of
22 questions that you were asked by Mr. Hassinger had
23 to do with how it came to be that you came forward
24 at some point in November, right?

25 A. Yes, sir.

1 Q. And it would be true that you came forward some two
2 months after this shooting that you say you
3 witnessed, right?

4 A. Yes, sir. I'm not for sure, but I'm just going to
5 say yes.

6 Q. Let's say it was some time in the early part of
7 November, right?

8 A. Yes, sir.

9 Q. Because actually a statement this was at 1300
10 Beaubien, correct?

11 A. Yes, sir.

12 Q. To a Sergeant Paul Jones?

13 A. Yes, sir.

14 Q. Sometime just before noon on November 11th, 2002?

15 A. Yes, sir.

16 Q. And prior to that time, sir, and this all came to
17 pass, your conscious got the better of you; is that
18 right?

19 A. Yes, sir.

20 Q. You started feeling bad about this poor guy that
21 got shot to death, right?

22 A. Yes, sir.

23 Q. Okay.

24 And just coincidentally when you came
25 forward was about the time that you had a beef with

1 Mr. Houston or Mr. Houston had a beef with you,
2 correct?

3 A. Yes, sir.

4 Q. Okay.

5 So what happens that you spent the night
6 at a house, a flat directly across from the field,
7 right?

8 A. Yes, sir.

9 Q. And you end up being in your car, correct, your
10 car?

11 A. Yes, sir.

12 Q. In the early morning hours, right?

13 A. The next day after I spent the night over there,
14 yes, sir.

15 Q. Before sun up, correct?

16 A. Yes, sir.

17 Q. And you're sitting in your car, it's nice weather,
18 I assume the windows are down?

19 A. Almost all the way down, yes, sir.

20 MR. LANKFORD: And if I may ask the
21 witness to step down for a second to the chart,
22 Your Honor?

23 THE COURT: You may.

24 BY MR. LANKFORD:

25 Q. Maybe I had directions wrong, but I want you to

1 assume that these numbers on bottom here are houses
2 on Buena Vista, okay?

3 A. Okay.

4 Q. And this is the field, all right?

5 A. Okay.

6 Q. Which side of the street were you parked on?

7 A. I was on the same side of the field.

8 Q. As the field?

9 A. Yes, sir.

10 Q. Pointed towards Linwood?

11 A. Yes, sir.

12 Q. Okay, do you see where it says, where it indicates
13 like a little sun glow?

14 A. Yes, sir.

15 Q. That's a street light, all right, and this pile of
16 debris marked pile of debris?

17 A. Yes, sir.

18 Q. And what looks to be a bike, correct?

19 A. Yes, sir.

20 Q. Where were you parked in relation to these items?

21 A. On the other side of the debris towards -- yes.

22 Q. Towards this way?

23 A. Yes, sir.

24 Q. Okay, thank you and you may be seated again.

25 You were with a young lady, correct?

1 A. Yes, sir.

2 Q. You drive that young lady home?

3 A. Yes, sir.

4 Q. I don't really need to know her name, but did you
5 ever tell the police in your statement that by the
6 way there is another person who witnessed this too?

7 A. No, sir.

8 Q. You didn't mention that?

9 A. No, sir.

10 Q. All right.

11 You indicated, speaking of things maybe
12 not mentioned, you indicated today that you saw Mr.
13 Thomas, Mr. Carlton Thomas let's assume that is the
14 death person's name, all right?

15 A. Okay.

16 Q. Did you see his pockets searched?

17 A. Yes, sir.

18 Q. By whom?

19 A. By Sean.

20 Q. Did you ever happen to mention that in your
21 statement?

22 A. No, sir, I didn't.

23 Q. Okay.

24 Now, so you don't come forward and you
25 got basically the whole month of September to come

1 forward, right?

2 A. Yes, sir.

3 Q. You don't do that?

4 A. No, sir.

5 Q. You got the entire month of October through

6 Halloween to come forward, right?

7 A. Yes, sir.

8 Q. You don't do that?

9 A. No, sir.

10 Q. And you don't do it until about a week or week in a

11 half in November, right, sir?

12 A. Yes, sir.

13 Q. More than two months later, correct?

14 A. Yes, sir.

15 Q. Now, I understand you know you're feeling bad, but

16 also at this time you indicated something about

17 you're being questioned by the police; is that

18 right?

19 A. Yes, sir.

20 Q. Between September and November?

21 A. Yes, sir.

22 Q. How many times are you being questioned by the

23 police?

24 A. Three times, sir.

25 Q. Three times. Were those all out in the area of

1 Buena Vista and Linwood or were you ever talked to
2 in less pleasant surroundings?

3 A. No, on Buena Vista and Linwood.

4 Q. Always on Buena Vista. Okay. So I don't need to
5 know your address, but do you live on Buena Vista?

6 A. No, sir.

7 Q. But you hang there a lot, don't you?

8 A. Yes, sir.

9 Q. Okay, because the police are able to find you three
10 times out there to talk with you, right?

11 A. Yes, sir.

12 Q. Okay.

13 And, in fact, you're out there grinding,
14 isn't that your word, sir?

15 A. Yes, sir.

16 Q. On a regular basis, correct?

17 A. Yes, sir.

18 Q. All right. In grinding, you indicated and I
19 appreciate your forthright, but grinding means
20 you're rolling, correct?

21 A. Yes, sir.

22 Q. That means you're selling dope, right?

23 A. Yes, sir.

24 Q. Sean Houston also appears to be selling dope,
25 right?

1 A. Yes, sir.

2 Q. And Jovan Johnson appears to be selling dope?

3 A. Yes, sir.

4 Q. The house that you spent the night in belongs to a

5 woman named Lisa?

6 A. Yes, sir.

7 Q. Okay, she's involved in this?

8 A. No, sir.

9 Q. Okay, she doesn't actively participate, would that

10 be fair?

11 A. I don't understand your question.

12 Q. You spend the night at Lisa's, correct?

13 A. I stay the night upstairs.

14 Q. Upstairs. Does Lisa roll?

15 A. No, sir.

16 Q. The person that lives in the other unit?

17 A. No, sir.

18 Q. Do you know those persons names?

19 A. I know Lisa stay downstairs and a girl name Kisha

20 stay upstairs.

21 Q. What about a person by the name of Tenisha Watson,

22 are you familiar with her? Probably live on

23 Glendale facing the opposite way, are you familiar

24 with her?

25 A. I know a Tenisha, but I don't know Tenisha Watson. I

don't know her last name. Probably so, yes.

2 | Q. Okay.

The person probably lives on Glendale a house on Glendale? I'm sorry, is Buena Vista and Glendale one block apart?

6 A. It's the next street, sir.

7 Q. Does Tenisha live on Glendale?

A. The Tenisha I know, no, she stayed on Tireman.

Q. What about a Keith Lee?

10 A. Excuse me?

11 Q. Does that ring a bell ring Keith Lee?

12 A. No, sir.

13 O. Somebody with a street name of PJ?

14 A. Oh, yeah.

15 Q. Okay.

16 And what happens, I mean, you are
17 specifically out there on September 6th at 5:00
18 o'clock in the morning?

19 A. Yes, sir.

20 | Q Looking to make a sale?

21 A Yes - sir.

22 Q. If there are any crack heads they show up, it's a
23 24 hour service, right?

34 A Yes sir

25 Q And so why you're out there, instead of you making

1 a sale, apparently Mr. Houston attempts to make a
2 sale; is that right?

3 A. Yes, sir.

4 Q. Then you guys aren't selling together, are you?

5 A. No, sir.

6 Q. And so would it be fair to say you would rather
7 make the sale yourself?

8 A. No, sir.

9 Q. No, sir, okay.

10 So you're just sitting out there but you
11 don't mind the competitor, right?

12 A. No, sir.

13 Q. I see, okay.

14 Even after this shooting you continue to
15 go out grinding, don't you, sir?

16 A. Yes, sir.

17 Q. That's a regular area for you, isn't it?

18 A. Yes, sir.

19 Q. All right.

20 Now, I want to make sure I have something
21 clear. You said Mr. Houston approaches the man and
22 you hear words, correct?

23 A. Yes, sir.

24 Q. And then you see Mr. Houston leave -- those words
25 take place in the field?

1 A. Yes, sir.

2 Q. Mr. Houston leaves the field, correct?

3 A. Yes, sir.

4 Q. Walks to some dwelling, right?

5 A. Excuse me?

6 Q. Walks to a dwelling?

7 A. You mean the home, right?

8 Q. A home, sure?

9 A. Yes, sir.

10 Q. What home is that; is that the same one that you
11 grind off the porch on?

12 A. Yes, sir.

13 Q. When did you see Mr. Houston show up that morning?

14 A. He was there from the day before. Okay, let me see
15 how can I explain it. It seems like say it's about
16 almost 2:00 o'clock now, say if I come on the block
17 now, I might not leave 'til tomorrow afternoon,
18 early morning.

19 Q. How does it happen that you see Mr. Houston
20 originally come out let's say 2638 Buena Vista or
21 do you see him arrive in a car shortly before 5:00
22 o'clock?

23 A. I seen him sitting on the porch.

24 Q. Sitting on the porch?

25 A. Yeah.

1 Q. Okay, he's sitting on the porch when you first take
2 up your location in your car?

3 A. Right.

4 Q. At which point you must have walked right by him,
5 right, if you're coming out of that address?

6 A. No.

7 Q. Next address?

8 A. I went in the house at that time. I was in my
9 car. I parked across the street.

10 Q. Okay, but when you first saw -- you're in your car
11 when you first see Mr. Houston?

12 A. Yes, sir.

13 Q. And he's on the porch?

14 A. Yes, sir. That's why I parked across the street
15 instead of going to the house.

16 Q. Okay, did you see where he came from?

17 A. He came off the down flat.

18 Q. But you hadn't seen him in that unit while you were
19 there overnight, right?

20 A. No.

21 Q. All right.

22 And at that time what you indicated is
23 apparently that a shot is fired by Mr. Houston at
24 the man in the field, right?

25 A. Yes, sir.

1 Q. I mean, he is physically gone, traveled through the
2 field, across the curb, across the sidewalk, across
3 the street, back up on the other curb, into the
4 house to get a gun, right?

5 A. Yes, sir.

6 Q. Okay.

7 During that time Mr. Thomas apparently
8 doesn't make any attempt to leave, right?

9 A. Not until he see the gun.

10 Q. Okay, but we're talking a fair amount of time to
11 walk over from a field into a house, right?

12 A. No, jog.

13 Q. Jog, okay, but still we're still talking ten,
14 fifteen seconds, right?

15 A. I don't know.

16 Q. I want you to assume that the distance from that
17 field to the front porch to be approximately 125
18 feet, okay, I want you to assume that, all right,
19 take that as true, okay. And then there's some
20 period of time inside the house before anybody
21 comes out with a gun, right?

22 A. I'm listening.

23 Q. Do you know?

24 A. I don't understand what you asking.

25 Q. Sure, a guy goes in the house, how long is Mr.

1 Houston supposedly in the house before he comes out
2 with the gun?

3 A. I don't know, I wasn't timing him.

4 Q. Okay.

5 All the time the man was trying to make a
6 buy, the guy ends getting shot, he's still out
7 there, isn't he?

8 A. Yes, sir.

9 Q. You're still out there?

10 A. Yes, sir.

11 Q. Jovan Johnson is still out there?

12 A. Yes, sir.

13 Q. Mr. Houston at least for the time being isn't out
14 there, correct?

15 A. Yes, sir.

16 Q. All right.

17 And then the first shot or series of
18 shots, could we distinguish them two different
19 shots or series of shots. One at the victim and
20 then when they're both in the field, okay. Now,
21 the first set of shots, where's that come from?

22 A. It come from the sidewalk.

23 Q. Okay, which sidewalk?

24 A. From the front of the house I spent the night in.

25 Q. Okay. Fired by Mr. Houston?

1 A. Yes, sir.

2 Q. Okay. That shot, how many shots then?

3 A. I think he fired two rounds.

4 Q. Okay, those shots do come from the side of the
5 street across from the field, right?

6 A. They come from the opposite side of the field.

7 Q. Right, okay.

8 So it's not like Mr. Houston is five feet
9 behind the guy chasing him at that time, is it?

10 A. No, sir.

11 Q. The man goes down, right?

12 A. Yes, sir.

13 Q. Now you say you see Mr. Houston jog back across to
14 where a field is, correct?

15 A. Yes, sir.

16 Q. And at that time you hear other rounds fired,
17 right?

18 A. After he rolled him over on his back.

19 Q. He used a racial epithet said something about you
20 know, got him in the face, right?

21 A. Yeah.

22 Q. Okay.

23 And you're out there watching it. Oh, do
24 you know where the young lady you were with is at
25 this point? I don't need to know her name but, do

1 you know where she is?

2 A. She probably still over on Taylor.

3 Q. Okay, so now Mr. Houston rolls him over,
4 supposedly, right?

5 A. Yes, sir.

6 Q. Okay, continues to fire other rounds, right?

7 A. I believe he went in his pockets, yes, sir.

8 Q. Okay.

9 Again, which you never mention to the
10 police about pockets, right, sir?

11 A. No, sir.

12 Q. Okay.

13 And he rolls him over and you seem to
14 have some familiarity with handguns, sir. You
15 pretty much think this is a 40, right?

16 A. Yes, sir.

17 Q. Okay. That being a semiautomatic weapon?

18 A. I don't know, I never fired it.

19 Q. Okay, but you've seen it before?

20 A. Yes, sir.

21 Q. You know it's kept in that residence, right, sir?

22 A. It was my friends -- it was the dude's supposed to
23 be my friend's gun. I seen him with it plenty
24 times.

25 Q. The dude?

1 A. Sean.

2 Q. Okay.

3 A. I have seen him with it plenty times.

4 Q. Okay.

5 You didn't mention that to the police,
6 did you, sir?

7 A. I wasn't asked that, sir.

8 Q. Okay.

9 It would be fair, sir, the answer to that
10 I assume that you never bothered to tell the police
11 that, right?

12 A. Yes, sir.

13 Q. Okay.

14 And when the police questioned you, and
15 you know that they're questioning you about a
16 shooting, right?

17 A. Yes, sir.

18 Q. And I assume you've now given them information, the
19 police aren't rushing you, are they, sir?

20 A. What you mean by rushing me?

21 Q. They're not saying, okay, sit down. We only got
22 five minutes to do this and we need to get this
23 stuff. They're not doing that, are they, sir?

24 A. No, sir.

25 Q. They're sitting there saying take your time. Tell

1 us everything, correct?

2 A. Yes, sir.

3 Q. Right, in fact, the last question that they ask you
4 is specifically do you have anything else to add to
5 this statement, right, sir?

6 A. Yes, sir.

7 Q. And you say no, correct?

8 A. Yes, sir.

9 Q. All right.

10 Even when you first -- your first contact
11 with the police after the beef with Mr. Houston has
12 to do with your beef with Mr. Houston or his beef
13 with you, right, sir?

14 A. Yes, sir.

15 Q. Okay.

16 It is not at that point I want to tell
17 you -- even then, it's not I want to tell you about
18 something I saw that's been wearing on me for two
19 months, is it, sir? It's not. I mean, your thing
20 is a couple of days we had this problem, right, or
21 a day ago we had this problem. That's how you
22 approach the police, right?

23 A. Uh-huh.

24 Q. Okay, that's a yes, sir?

25 A. Yes, sir.

1 Q. Okay.

2 So it's not that after two months I can't
3 take this anymore. I have to tell the police
4 about what I saw that day on September 6th. That's
5 not how you first approach the police with regards
6 to this case, is it?

7 A. I don't know how to answer that question.

8 Q. Okay, okay. How many shots fired total, sir?

9 A. I don't know. I didn't count.

10 Q. Do you know how many shots this Glock would hold?

11 A. No, sir.

12 Q. You are aware that the bullets would be in the
13 handle of the weapon, right?

14 A. Yes, sir.

15 Q. The whole length of the weapon, right?

16 A. I guess so.

17 Q. As far as you know. Okay.

18 Now, you're talking about at some point
19 when you used to be with Mr. Michon Houston and
20 when Mr. Houston was arrested -- sorry, I lost my
21 train of thought.

22 THE COURT: Read that question for me,
23 please. Do you remember?

24 THE WITNESS: It was the full length of
25 the gun.

1 BY MR. LANKFORD:

2 Q. I think my last question was with regards to when
3 you were with Officers Moss and Adams and Mr.
4 Houston's arrested?

5 A. Yes.

6 Q. You were with Officer Moss and Adams when Mr. Houston
7 was arrested, correct, sir?

8 A. Yes, sir.

9 Q. Okay, you seen them bring Mr. Houston out?

10 A. Yes, sir.

11 Q. 2675 Buena Vista?

12 A. I don't know that address.

13 Q. The same side of the street of the field?

14 A. Yes, sir.

15 Q. All right.

16 Do you see either of those two officers
17 with any type of firearm other than their own
18 department issued?

19 A. No, sir.

20 Q. All right.

21 Now, do you recall in your statement
22 saying specifically because you had testified today
23 that Mr. Houston went and retrieved a gun from the
24 flat where Lisa lives or that building, right?

25 A. Yes, sir.

1 Q. Do you recall telling the police that he left to
2 get a gun from a vacant house?

3 A. I don't remember.

4 Q. You don't remember?

5 A. No, sir.

6 MR. LANKFORD: May I approach, Your
7 Honor?

8 THE COURT: Sure.

9 MR. LANKFORD: Thank you.

10 BY MR. LANKFORD:

11 Q. Sir, I'd like you to look basically about a third
12 of the way down in the yellow. Read it to
13 yourself.

14 A. On the right?

15 Q. No, second set of yellows. Okay. Just read it to
16 yourself. Don't say anything at this point,
17 please.

18 Okay, have you had a chance to read the
19 highlighted area, sir?

20 A. Yes, sir.

21 Q. Does that refresh your memory as to whether or not
22 you told police that he went to a vacant house?

23 A. I didn't say he went to a vacant house, sir.

24 That's what they wrote right there. That's not what
25 I said.

1 Q. Okay.

2 A. I said he went to the house across the street from
3 the field.

4 Q. Take a look at People's Exhibit Number Four, sir.
5 Do you recognize that?

6 A. Yes.

7 Q. Okay.

8 That's from the field looking north
9 towards the houses, right?

10 A. Uh-huh.

11 Q. Is that a yes?

12 A. Yes.

13 Q. Okay, now, in that photograph your vehicle, and
14 it's a passenger car, isn't it, sir?

15 A. Yes, sir.

16 Q. It's not a van. It's doesn't really sit that high
17 off the ground, right?

18 A. Right.

19 Q. Okay.

20 In that photograph there is a picture of
21 what appears to be a semi-marked Detroit police
22 car, right?

23 A. Right.

24 Q. You drive an '84 Olds Cutlass?

25 A. Yes, I do.

1 Q. Okay.

2 Basically the height of that vehicle
3 would be basically the same for a police car,
4 right?

5 A. Maybe.

6 Q. Maybe, okay.

7 And in that photo, sir, you can see a
8 debris pile, correct?

9 A. Correct.

10 Q. Pretty clearly, right?

11 A. Yes, sir.

12 Q. Okay.

13 Now to the left of that debris pile would
14 be where you are parked, right?

15 A. Yes, sir.

16 Q. And there's a little mound there, isn't there, sir?

17 A. Yes, sir.

18 Q. A dirt mound, correct?

19 A. No, sir, just some weeds.

20 Q. Some weeds, okay, that's not elevated?

21 A. No.

22 Q. Okay.

23 You may be right, but you would agree at
24 that point that would generally be where you were
25 parked, right, sir?

1 A. Yes, sir.

2 Q. And there are overgrown weeds, aren't there?

3 A. There are weeds there, sir.

4 Q. Fairly high weeds, correct?

5 A. If that's what you want to call them. They
6 wouldn't block no view if you look at it.

7 Q. I didn't ask that. Is that what the photo shows,
8 sir, overgrown weeds?

9 A. It shows overgrown weeds on the fence.

10 Q. Okay, right near where you would have been parked,
11 right?

12 A. Uh-huh.

13 Q. Uh-huh, that's a yes?

14 A. Yes, sir.

15 Q. Do you consider yourself friends with J-W?

16 A. Yes.

17 Q. Just about the time you come forward in any regards
18 regarding anything to do with Mr. Houston is about
19 the time that Mr. Johnson's managed to get himself
20 locked up on something, right, sir?

21 MR. HASSINGER: I'm going to object unless
22 there's a foundation.

23 THE COURT: I'll sustain the objection.

24 BY MR. LANKFORD:

25 Q. Are you friends with Mr. Jovan Johnson?

1 A. Yes.

2 Q. Okay.

3 Were you aware that he had been arrested
4 on some charge the early part of November?

5 A. No.

6 Q. When did you learn -- are you aware of that now?

7 A. Yes.

8 Q. When did you learn it, sir?

9 A. I learned after Thanksgiving.

10 Q. All right. For a while you didn't see Mr. Johnson?

11 A. No, sir.

12 Q. You didn't hear anything about his whereabouts?

13 A. No, sir. I wasn't over Buena Vista and Linwood
14 area. I was at home.

15 Q. But you were at Buena Vista and Linwood from the
16 early part of September through the early part of
17 November, right, sir?

18 A. Yes, sir.

19 Q. Okay.

20 Now, even in the context of street deals,
21 a shooting of a person that you witness would be a
22 pretty dramatic event, wouldn't it?

23 A. Yes.

24 Q. Something that would stick with you, right?

25 A. Yes, sir.

1 Q. And after you drive this young woman home, you
2 return to that location in Buena Vista, don't you,
3 sir?

4 A. Yes, sir.

5 Q. And you must arrived there what 6:30 something like
6 that; is that about right?

7 A. Yes, sir.

8 Q. It's light outside at that time, correct?

9 A. Yes, sir.

10 Q. You do not see Mr. Houston at that time, do you,
11 sir?

12 A. No, sir.

13 Q. You do not see Mr. Johnson at that time, do you,
14 sir?

15 A. No, sir.

16 Q. Police officers are there, aren't they?

17 A. Yes, sir.

18 Q. Quite a few of them, right?

19 A. Yes, sir.

20 Q. Lots of law enforcement personnel, correct?

21 A. Yes, sir.

22 Q. An hour and a half after this shooting, when you
23 come back, did you manage or bother to ever go up
24 to any of the police and say I need to talk with
25 you?

1 A. No, sir.

2 Q. I know why you're here. I got information. Do you
3 say that?

4 A. No, sir. Can I say why?

5 Q. No, question, sir.

6 Now, you were able to hear, apparently
7 you were close enough that you were able to hear
8 according to your testimony that Michon Houston
9 asked Mr. Thomas what you need, right?

10 A. Yes, sir.

11 Q. Did you ever hear Jovan Johnson ask or yell out
12 what you need?

13 A. No, sir.

14 Q. Mr. Johnson at the time of this?

15 A. At first, let me see, Mr. Johnson, that's JW,
16 right?

17 Q. Correct.

18 A. At first both of them all rushed out to the field.

19 Q. Say what?

20 A. Both of them all went out towards the field.

21 Q. Okay.

22 A. JW went and got back on the porch.

23 Q. Okay.

24 One second, please. Okay, so you do see
25 JW go to the field initially?

1 A. Towards the field.

2 Q. Towards the field?

3 A. Yes, sir.

4 Q. That's true, you did see him do that, right?

5 A. Yes, sir.

6 Q. Did you ever hear him ask the guy what you need?

7 A. No, sir.

8 Q. Okay, only Mr. Houston asked that; is that right?

9 A. Yes, sir.

10 Q. All right.

11 And you would agree that as between
12 yourself and Mr. Houston, that at the time of this
13 shooting that you had known Mr. Houston for maybe
14 two months; is that about right from July until
15 September?

16 A. Yes, sir.

17 Q. Excuse me a couple of seconds. Did you see a
18 bicycle at any point, sir?

19 A. Not that I remember.

20 Q. Did you see when Mr. Thomas showed up; were you
21 present in your car when Mr. Thomas arrived?

22 A. Yes, sir.

23 Q. Okay.

24 Because you said that you saw him come
25 from the area of Glendale, right?

1 A. Yes, sir.

2 Q. Was he on a bicycle or was he on foot?

3 A. All I remember is seeing him standing up there and
4 hearing him talking. I don't exactly know, sir.

5 Q. And it took place in the field, right?

6 A. Yes, sir.

7 Q. Would it be fair to say Mr. Thomas had not yet made
8 it to the curb where you were parked, right?

9 A. Right, yes, sir.

10 Q. Oh, I'm sorry. You have known Mr. Houston since
11 July, right?

12 A. That's when I met him, sir.

13 Q. Look at him a second. Do you see anything
14 distinctive on his face?

15 A. Tear drops.

16 Q. Tear drops, tattoo, right?

17 A. Yes, sir.

18 Q. Did he have that when you met him in July?

19 A. Yes.

20 Q. Okay.

21 He's had it the whole time you've known
22 him?

23 A. Yes, sir.

24 Q. Sir, would it be fair that during the time that you
25 had been questioned three previous occasions by

1 police and you say you don't know anything, right?

2 A. Yes, sir.

3 Q. What you are saying here today is correct, that
4 would mean that you lied to them, right?

5 A. Yes, sir.

6 Q. All right.

7 Did you see a second guy with Mr. Thomas?

8 A. No, sir.

9 Q. All by himself, right?

10 A. Yes.

11 Q. What time did you go and get in your car from the
12 house?

13 A. I've been around there that day.

14 Q. The question is how long do you think you've been
15 sitting in your car?

16 A. I had been in my car since about 12:30.

17 Q. That afternoon or that night?

18 A. That afternoon.

19 Q. So you spent the night at or in the residence?

20 A. I spent the night before the shooting in the
21 resident. The night of the shooting I was on the
22 block grinding.

23 Q. Maybe I'm thinking it's the same night. Let's say
24 the 5th, you go over there sometime on the 5th,
25 right?

1 A. Okay.

2 Q. The shooting's on the 6th in the early morning
3 hours?

4 A. Right, I spent the night on the 5th and I was there
5 all day to the next day.

6 Q. My question is, when you saw the shooting, how long
7 had you been in your car?

8 A. I had been in my car the whole day basically.

9 Q. Okay.

10 And so obviously would it be fair to say
11 that you're not just sitting out there, you're
12 making sales, aren't you?

13 A. Yes.

14 Q. It's active, correct?

15 A. Yes.

16 Q. Are you using any narcotics or alcohol while you're
17 sitting out there?

18 A. Smoking weed.

19 Q. Smoking weed, okay.

20 According to your testimony you saw Mr.
21 Houston cross the street, go back into the field
22 with Mr. Thomas. Where was Mr. Thomas at that
23 time?

24 A. When I seen Mr. Houston go back in the field Mr.
25 Thomas was standing in the field close to the tree.

1 Q. Close to, correct?

2 A. Yes, sir.

3 Q. But it would be on the side you could see, right,
4 sir?

5 A. Yes, sir.

6 Q. He never ran around to the back side, right?

7 A. Not that I noticed, no.

8 Q. And you were watching, weren't you?

9 A. Yes.

10 Q. And you didn't see that?

11 A. No, sir.

12 MR. LANKFORD: Thank you. No other cross.

13 THE COURT: Redirect?

14 MR. HASSINGER: Thank you, Judge.

15 REDIRECT EXAMINATION

16 BY MR. HASSINGER:

17 Q. Mr. Crooks, when you came back to that location an
18 hour after the shooting, why didn't you immediately
19 approach the police and tell them what you had
20 seen?

21 A. Because I felt again I would be a little bit viewed
22 wrong because I was at that present time dealing
23 drugs on that street, and I thought that I would be
24 viewed as a snitch.

25 Q. Was Mr. Houston a friend of yours at that time?

1 A. Yes, he was.

2 Q. You had basically been dealing, was it crack?

3 A. Yes, sir.

4 Q. You'd be dealing crack all night up to 5:00 in the
5 morning; is that right?

6 A. Yes, sir.

7 Q. And had that girl been with you that whole time?

8 A. No, sir.

9 Q. Did you have to go get that girl at some point?

10 A. Yes, sir.

11 Q. So at least at some point you were not at that
12 location?

13 A. For a couple of minutes, yes, sir.

14 Q. Now, when you spent the night there the night
15 before, was Mr. Houston there?

16 A. No, sir.

17 Q. Sir, you've admitted a lot of things here today.
18 You're out there dealing dope, at least back in
19 September. Sir, are you coming into court here
20 today committing perjury and lying to setup up Mr.
21 Houston on a murder case?

22 A. No, sir.

23 MR. HASSINGER: Thank you, Judge.

24 THE COURT: Recross?

25 MR. LANKFORD: Thank you.

1 RECROSS-EXAMINATION

2 BY MR. LANKFORD:

3 Q. Sir, you indicated the reason you didn't say
4 anything when you came back an hour and a half
5 later is because you would be viewed wrong, right?

6 A. Yes, sir.

7 Q. Members of the dope dealing committee --

8 THE COURT: You're going so fast the court
9 reporter cannot take you down.

10 MR. LANKFORD: Sorry.

11 BY MR. LANKFORD:

12 Q. To members of the dope dealing community, you might
13 be viewed as a snitch, correct?

14 A. Yes, sir.

15 Q. Under the circumstances you been a drug dealer and
16 Mr. Thomas presumably being a possible buyer, you
17 might also be viewed as a suspect on this case,
18 correct, sir?

19 A. No, sir?

20 Q. You didn't think so?

21 A. No, sir, because I haven't said a word to Mr.
22 Thomas. I never went near him.

23 Q. But my point is the police were there and you were
24 asked why didn't you say anything at 6:30, right?

25 A. And I answered why I didn't say nothing at 6:30

1 because I felt that I would be viewed by the people
2 in the neighborhood and at that time he was not
3 apprehended. That mean I have to fear my life with
4 him --

5 Q. You answered the question

6 A. I can't finish?

7 Q. You took care of it.

8 THE COURT: Excuse me, counsel. You do
9 not have a right to cut him off. You ask a
10 question, you must allow him to answer it. Go
11 ahead.

12 THE WITNESS: If I feel I fear my life
13 because he's not apprehended, and if I tell on him
14 before you all get him, then I would have to kill
15 him or he'll kill me. That's why I didn't say
16 nothing.

17 BY MR. LANKFORD:

18 Q. So going back to it, sir, you felt it could be
19 viewed wrong, correct?

20 A. If that's the way you put it, yes, sir.

21 Q. The police asked you three times?

22 A. And I denied.

23 Q. And you didn't say anything, right?

24 A. No, sir.

25 Q. All right.

1 And, again, you indicated you feared for
2 your life, right, sir?

3 A. Yes, sir.

4 Q. All right.

5 A. When I was first asked about what happened, they
6 said I didn't have to give my name I didn't have to
7 say nothing, I denied knowing anything. I said I
8 didn't know anything at all. So the detective came
9 back the next day him, a lady, and another officer.
10 They apprehended me and I denied. And they told me
11 they were going to find out what happened because
12 they had to go home and tell this 30 year-old on
13 his father's birthday to his mom, on his father's
14 birthday that he was killed.

15 MR. LANKFORD: Your Honor, at this point
16 it's non-responsive.

17 THE COURT: It's non-responsive. There's
18 no question before you. It's stricken. The jury is
19 told to disregard it.

20 BY MR. LANKFORD:

21 Q. Focus on this. When you come at 6:30 on the 6th,
22 all right, Mr. Houston isn't out there, is he?

23 A. No, sir.

24 Q. There's multiple police officers out there?

25 A. Yes, sir.

1 Q. The next day when you talk with the detectives, Mr.
2 Houston isn't there, is he, sir?

3 A. No, sir.

4 Q. And you are with police detectives, aren't you?

5 A. Yes, sir.

6 MR. LANKFORD: Nothing else. Thank you.

7 THE COURT: All right, we're going to rise
8 and have our jury step in the jury room. Jurors
9 are free to step in the jury room.

10 (Jury exits courtroom at 3:00 p.m.)

11 (Court is in recess)

12 (Court reconvenes)

13 THE COURT: You may be seated. Do you
14 envision having to recall this witness for any
15 purpose?

16 MR. HASSINGER: The People do not.

17 MR. LANKFORD: Nor does defense.

18 THE COURT: Then I will discharge the
19 bench warrant at this time.

20 MR. HASSINGER: Thank you, Your Honor.

21 THE COURT: Okay, who's your next
22 witness? Somebody else is in custody?

23 MR. HASSINGER: Yes, Judge.

24 THE COURT: Where is that person?

25 MR. HASSINGER: Out in the hallway with

1 the police officers.

2 THE COURT: Okay, this man can step down.

3 Let's rise for our jurors.

4 (Jury enters courtroom at 3:10 p.m.)

5 THE COURT: Let's rise for our jurors.

6 Go ahead, counsel.

7 MR. HASSINGER: The People call Jovan
8 Johnson.

9 THE CLERK: Raise your right hand to be
10 sworn, please. Do you solemnly swear or affirm
11 that the testimony you're about to give before the
12 court to be the truth under the pains of penalty of
13 perjury?

14 MR. JOHNSON: Yes.

15 THE COURT: You can be seated right there
16 and we're going to ask you to speak right into that
17 microphone.

18 Counsel, your appearance for the record.

19 MR. NISKAR: Joseph Niskar on behalf of
20 Mr. Johnson, Your Honor.

21 THE COURT: Counsel, whenever you're
22 ready.

23 MR. HASSINGER: Thank you, Judge.

24 DIRECT EXAMINATION

25 BY MR. HASSINGER:

1 Q. Good afternoon, sir, would you introduce yourself
2 for the jury.

3 A. Jovan Johnson.

4 Q. Mr. Johnson, I'm going to ask you to keep your
5 voice up nice and loud so everybody in the room can
6 hear you, okay?

7 A. Yes, sir.

8 Q. Mr. Johnson, do you have a nickname out on the
9 street?

10 A. Yes, sir.

11 Q. What is it?

12 A. JW.

13 Q. That's the letter "J" is it?

14 A. Yeah.

15 Q. And then "W," like short for "W"?

16 A. Yeah.

17 Q. Okay, how old are you, sir?

18 A. Twenty-two.

19 Q. Do you know the Defendant in this case, Mr. Michon
20 Houston?

21 A. Yes, sir.

22 Q. Do you see him here in the courtroom today?

23 A. Yes, sir.

24 Q. Would you point to him and tell us what he's
25 wearing today, please?

1 A. Black with tan pants.

2 MR. HASSINGER: Judge, I'd like the record
3 to reflect he's pointed to and identified the
4 defendant, Mr. Michon Houston.

5 THE COURT: All right.

6 BY MR. HASSINGER:

7 Q. How long have you known Michon Houston?

8 A. Probably a year.

9 Q. How is it you know him?

10 A. In the neighborhood.

11 Q. What neighborhood, sir?

12 A. Buena Vista.

13 Q. Does Mr. Houston have a nickname that you know him
14 by?

15 A. Sean.

16 Q. Sir, I'd like to take you back to September 6th of
17 last year 2002 around 5:00 a.m., do you recall who
18 you were with back on that date around that time?

19 A. Yes, sir.

20 Q. Pardon me?

21 A. Yes, sir.

22 Q. Who were you with?

23 A. Sean.

24 Q. The person you identified here in court today?

25 A. Yes, sir.

1 Q. Where were you at?

2 A. We was on Buena Vista.

3 Q. Do you recall you were on Buena Vista, you were?

4 A. In the middle of the block.

5 Q. Between what two streets?

6 A. Between Linwood.

7 Q. And what would be the other street?

8 A. Linwood.

9 Q. Is there a vacant field across from where you were
10 with Mr. Houston?

11 A. Which block?

12 Q. Who else was with you and Mr. Houston?

13 A. Umm --

14 Q. Powder?

15 A. Yes, sir.

16 Q. Okay.

17 Describe Powder for the jury, please?

18 A. Short white girl.

19 Q. And what was Powder's relationship with Mr. Houston,
20 if you know?

21 A. I guess they was going together.

22 Q. Now, what time had you gotten over on Buena Vista
23 with Mr. Houston and Powder?

24 A. About four or five in the morning.

25 Q. Were the three of you coming from somewhere?

1 A. Yes, sir.

2 Q. Where were the three of you coming from?

3 A. Zodiac.

4 Q. The Zodiac?

5 A. (No response.)

6 Q. You have to say yes or no?

7 A. Yes, sir.

8 Q. Tell the jury what the Zodiac is?

9 A. A motorcycle club.

10 Q. And after hours motorcycle club?

11 A. Yes, sir.

12 Q. And how long had you been at the Zodiac?

13 A. For about two hours.

14 Q. What were you doing there?

15 A. Just drinking in there.

16 Q. Drinking alcohol?

17 A. Yes, sir.

18 Q. All three of you?

19 A. Yes, sir.

20 Q. Back on that date, how would you consider your
relationship with Mr. Houston?

22 A. He's an all right guy.

23 Q. Pardon me?

24 A. He's an all right guy.

25 Q. He's an all right guy?

1 A. Yeah.

2 Q. Did you socialize a lot?

3 A. Every now and then when we was on the block we did.

4 Q. What did you do on the block?

5 A. Sold drugs.

6 Q. Do you know what Mr. Houston did on the block?

7 A. I guess same thing.

8 Q. Did you know someone by the name of Lavero Crooks

9 back then also known on the street as the Country?

10 A. Yes, sir.

11 Q. Do you know what he did on the block?

12 A. Sold drugs.

13 Q. How did all of you guys get along back on
14 September 6th?

15 A. It wasn't like that. It was each his own.

16 Q. Okay.

17 Was there any bad blood between the three
18 of you?

19 A. I wouldn't say that.

20 Q. You would say it was to each their own?

21 A. Yeah.

22 Q. In the early morning hours then where are you and
23 Powder or Mr. Houston when you're on Buena Vista;
24 where exactly are you?

25 A. Sitting on the porch.

1 Q. Do you know how many houses off of the alley you
2 were from the alley closest to Linwood?

3 A. About three houses.

4 Q. Were you right across from that vacant lot?

5 A. Yes, sir.

6 Q. At some point did you see somebody cutting through
7 that vacant lot in the early morning hours?

8 A. Yes, sir.

9 Q. And what happened?

10 A. We called him, then Sean went over there.

11 Q. Okay, first you said we called him; what do you
12 mean by that?

13 A. I called him too.

14 Q. What did you say?

15 A. I said, "What was up, man."

16 Q. Did you yell out to the person you saw cutting
17 through the trees?

18 A. Yeah.

19 Q. Did you have any trouble seeing that person?

20 A. I saw him clear coming through the field.

21 Q. Describe the person for us to the jury?

22 A. Brown-skinned guy, around 170 or 190. I don't
23 really remember how he looked like that.

24 Q. He was a black male?

25 A. Yes, sir.

1 Q. Do you recall if he had a coat or what he was
2 wearing?

3 A. Yeah, he had a coat on.

4 Q. Is anybody else with him or is he by himself?

5 A. By himself.

6 Q. A lot of us have never been over that area, is
7 there a lot traffic going through that area
8 typically?

9 A. Yes, sir.

10 Q. And was that narcotic sales?

11 A. Yes, sir.

12 Q. Is there enough business there to keep three drug
13 dealers busy?

14 A. Yes, sir.

15 Q. So in any event you call out to this person you see
16 cutting across the field; is that correct?

17 A. Yes, sir.

18 Q. And are you still on the porch when you do that?

19 A. Yes, sir.

20 Q. Do you leave the porch?

21 A. No, sir.

22 Q. What if anything does Mr. Houston do?

23 A. He went over there and talked to him.

24 Q. Could you hear the conversation between Mr. Houston
25 and that person?

1 A. No, sir.

2 Q. Who do you think is the owner of that house whose
3 porch you're sitting on?

4 A. I don't know the landlord none, but I know the
5 people that stayed there.

6 Q. Okay, what were the names of the people that stayed
7 there?

8 A. Lisa.

9 Q. Lisa?

10 A. Yeah.

11 Q. Is that a four-family flat?

12 A. Two family flat.

13 Q. Upper and lower?

14 A. Yeah.

15 Q. At some point can you hear any of the other
16 conversation between Mr. Houston and the person
17 he's talking to?

18 A. No, sir.

19 Q. Is there any yelling after a little bit of the
20 conversation?

21 A. Yes, sir.

22 Q. Okay, that's what I'm asking you. At some point
23 could you hear something?

24 A. Yes, sir.

25 Q. What's the first thing that you could hear?

1 A. Bitch.

2 Q. Who's saying bitch?

3 A. Sean.

4 Q. That's Sean Houston?

5 A. Yes, sir.

6 Q. Okay, does he seem upset to you?

7 A. Yes, sir.

8 Q. Who he is talking to when he's saying those words?

9 A. To the guy that was standing there.

10 Q. What happened next?

11 A. He chased him around the tree.

12 Q. You saw Mr. Houston chasing the man?

13 A. Yes, sir.

14 Q. What happens next?

15 A. He was shot.

16 Q. Could you see a gun at that time?

17 A. No, sir.

18 Q. How did you know somebody got shot or there were
19 shooting going on?

20 A. I heard it and saw it.

21 Q. Who is shooting?

22 A. Sean.

23 Q. And that's the person you identified here in court?

24 A. Yes, sir.

25 Q. Do you see anything happen to the man he was

1 shooting at?

2 A. The man fell.

3 Q. Can you tell us how many shots were fired before
4 the man fell?

5 A. About two or three.

6 Q. Are you watching this whole time?

7 A. Yes, sir.

8 Q. What happens after the first couple of shots?

9 A. The man fell.

10 Q. Are there a couple of trees there in that field?

11 A. There's one tree.

12 Q. Where does the man fall in relationship to the
13 tree?

14 A. He fell near it. I don't know how far away he was
15 from it.

16 Q. But close to the tree?

17 A. Yeah.

18 Q. From where you were on the porch, could you see how
19 the man fell?

20 A. Yes.

21 Q. How did he fall?

22 A. He fell on his back.

23 Q. What happens next?

24 A. He stood over him and shot him about two, three
25 times.

1 Q. Who stood over him and shot him?

2 A. Sean.

3 Q. Was Sean saying anything that you could hear during
4 that time?

5 A. No, sir.

6 Q. When the man's lying on his back, how many times
7 does Sean shoot at him?

8 A. About two or three times. I don't know it exact.

9 Q. But to the best of your knowledge it was two or
10 three times?

11 A. Yes, sir.

12 Q. What happens next?

13 A. He come across the street to where we was standing.

14 Q. You're still on the porch?

15 A. Yes, sir.

16 Q. What if anything does Sean say when he comes back
17 to where you're at?

18 A. He said now he want to grab the car.

19 Q. Sir, we didn't understand what you said?

20 A. He wanted to grab the car. He went and hopped in
21 the car.

22 Q. He didn't say anything to you?

23 A. When he came back in the car, yeah.

24 Q. What did he say to you then?

25 A. He told me to get in.

1 Q. Did you ever leave the porch and go over to that
2 field?

3 A. Yeah, he told me to go see if he was dead.

4 Q. Okay, wait a second now. That's what I was driving
5 at?

6 A. My mistake.

7 Q. Okay, you made a mistake?

8 A. Yeah.

9 Q. When Mr. Houston comes back from by that tree where
10 the man fell, what happens?

11 A. He told me to go look, go see if he dead.

12 Q. What do you say?

13 A. I told him no.

14 Q. What happens next?

15 A. He said, bitch, go look at him.

16 Q. Mr. Houston told you bitch go look at him?

17 A. Yes, sir.

18 Q. Okay, what did you do?

19 A. I went over there and looked at him.

20 Q. Did you go over and look at the man then?

21 A. Yes, sir.

22 Q. Why did you do that?

23 A. He had a gun in his hand at that point in time.

24 Q. Do you go over to the man at that time?

25 A. Yes, sir.

1 Q. What do you see?
2 A. He's bleeding, but he was still breathing.
3 Q. Did you try and talk to him at all?
4 A. I asked him if he was all right.
5 Q. You asked him if was all right?
6 A. Yes, sir.
7 Q. Was he able to talk back to you?
8 A. He nod his head.
9 Q. What did you do?
10 A. I went back across the street and said he was dead.
11 Q. And who did you tell that the man was dead to?
12 A. Sean.
13 Q. Where is Sean at that time?
14 A. Standing in front of the house that we was sitting
15 on the porch on.
16 Q. Can you still see the gun at that time?
17 A. Yeah.
18 Q. Have you ever seen that gun before that day?
19 A. No, sir.
20 Q. So you go back and tell Mr. Houston that the man
21 dead?
22 A. Yes, sir.
23 Q. What happens next?
24 A. Then he said get in the car.
25 Q. Does Mr. Houston get in the car?

1 A. Who?

2 Q. Mr. Houston?

3 A. Yes, sir.

4 Q. What kind of car does he get into?

5 A. It's like a Tempo. I don't know what kind of car

6 it was.

7 Q. Okay, had you ever seen that car before?

8 A. No, sir.

9 Q. Did you now whose car that was?

10 A. No, sir.

11 Q. Do you get in the vehicle with Mr. Houston?

12 A. Yes, sir.

13 Q. What happens?

14 A. He pulled off. He was telling Powder to get in but

15 she wouldn't get in and he dropped me off after

16 that.

17 Q. Okay, his girlfriend refused to get in the car?

18 A. Yes, sir.

19 Q. Mr. Houston takes you somewhere?

20 A. Yes, sir.

21 Q. Where does he take you?

22 A. To Dexter.

23 Q. And why do you want to go there?

24 A. So I can go to the house.

25 Q. That's your neighborhood where you live?

1 A. Yes, sir.

2 Q. How long does it take him to get you over there?

3 A. About two or three minute.

4 Q. The house where you were on the porch there, how
5 many times have you been to that house, Lisa's
6 house?

7 A. A lot.

8 Q. Is that where you regularly deal drugs from?

9 A. Yes, sir.

10 Q. So that's one of the local drug houses?

11 A. Yes, sir.

12 Q. Do you know if Lavero Crooks, the guy you know as
13 Country, does he deal out of that house also?

14 A. No, sir.

15 Q. How was it, sir, that you came to give a statement
16 to the police about what you knew in this case?

17 A. I caught a drug case.

18 Q. I'm sorry?

19 A. I was in jail.

20 THE COURT: He said he caught a drug
21 case.

22 BY MR. HASSINGER:

23 Q. Thank you, Judge, I got bad hearing.

24 Okay, so you caught a drug case and you
25 were locked up; is that right?

1 A. Yes, sir.

2 Q. So the police came to talk to you?

3 A. Yes, sir.

4 Q. Did they promise you anything if you cooperated in
5 this case?

6 A. I wouldn't go to jail for accessory.

7 Q. Okay, at first did you --

8 THE COURT: Excuse me, I'm not sure if the
9 jury was able to hear. He wouldn't go to jail for
10 what?

11 THE WITNESS: Accessory.

12 THE COURT: Go ahead.

13 BY MR. HASSINGER:

14 Q. For accessory?

15 A. Yes, sir.

16 Q. At first did you intend to cooperate with the
17 police?

18 A. No, sir.

19 Q. And when you did sit down with the police, did you
20 tell them the truth when you finally did give a
21 statement?

22 A. Yes, sir.

23 Q. Did the police in your opinion sort of tricked you
24 into giving a statement?

25 A. No, sir.

1 Q. Did they accuse you of anything in order for you to
2 give a statement?

3 A. No, sir.

4 Q. Did the police tell you what they wanted to talk to
5 you about?

6 A. Yes, sir.

7 Q. What did they say they wanted to talk to you about?

8 A. A homicide that happened on Buena Vista and
9 Linwood.

10 Q. So you then gave the police a statement on November
11 17th of last year?

12 A. Yes, sir.

13 Q. And then at some point you had to testify over in
14 36 District Court about this particular case?

15 A. Yes, sir.

16 Q. Did you tell the truth?

17 A. Yes, sir.

18 Q. Is it fair to say that even at five in the morning,
19 six in the morning out there on Buena Vista there's
20 a fair amount of drug trafficking going on?

21 A. Yes, sir.

22 Q. Besides yourself and Powder and Mr. Houston, did
23 you actually see any other people out there that
24 morning?

25 A. No, sir.

1 Q. Can you give us any idea of how many drug
2 transactions you would have made in that hour
3 between five and six a.m.

4 A. I can't tell you that.

5 MR. HASSINGER: One second, Judge.

6 Thank you, Judge.

7 THE COURT: All right, counsel, this is a
8 good time for us to take our coffee break. Once
9 again I promised the lawyers that I would take care
10 of some matters, and so we're going to run just a
11 little bit longer for our coffee break than we
12 would usually take.

13 If you go out the property, be outside
14 that door at five minutes to three by that clock.
15 If you go into the jury room you'll have to remain
16 in there until we knock for you and tell you to
17 come out. We'll rise for you to take your coffee
18 break.

19 (Jury exits courtroom)

20 (Court is in recess)

21 THE COURT: You may be seated.

22 (Jury enters courtroom)

23 THE COURT: You may proceed, counsel.

24 CROSS-EXAMINATION

25 BY MR. LANKFORD:

1 Q. Mr. Johnson, I want to show you a couple of
2 photographs. I want you to look at People's
3 Number 9, what's that a photograph of, sir?
4 A. This is the field and the house we were sitting on
5 the porch.
6 Q. And that's just showing a portion of the house that
7 you're sitting on; is that correct?
8 A. Yes, sir.
9 Q. I'm trying to think if any of these are better.
10 Okay, yes, just the portion of the house that you
11 say you were sitting on, sir?
12 A. Yes, sir.
13 Q. Did that appear to have windows in it?
14 A. This is the house right here.
15 Q. Right, that one there?
16 A. This one.
17 Q. Does that appear to have windows in it?
18 A. Yes, sir.
19 Q. It does. It doesn't look it's an opening at the
20 top?
21 A. Here's the door, top door and the bottom door.
22 Q. And does that particular porch have columns?
23 A. What'd you just say?
24 Q. Columns, brick columns running from top to bottom,
25 correct?

1 A. Yes, sir.

2 Q. And the porch also has a brick, basically an area
3 that's bricked in maybe up to where this bench
4 would be on me, correct?

5 A. Yes, sir.

6 Q. All right, in fact there was a column on the corner
7 of that house, isn't there, sir?

8 A. Yes, sir.

9 Q. Okay.

10 Sir, I want to take your attention back
11 to, and we'll come back on September 6th shortly,
12 but I want to take your attention first to
13 November 17th, 2002; do you remember that day?

14 A. Yes, sir.

15 Q. Okay.

16 You had been charged with some drug
17 offense, right, sir?

18 A. Yes, sir.

19 Q. And you are in police custody, correct?

20 A. Yes, sir.

21 Q. At some point homicide detectives come over to see
22 you at county jail, right?

23 A. Yes, sir.

24 Q. You do not initiate contact with them, right?

25 A. Yes, sir.

1 Q. And you don't ask to talk with them, correct?

2 A. Yes, sir.

3 Q. They come over, right?

4 A. Yes, sir.

5 Q. They say they want to talk to you about a situation,
6 right?

7 A. Yes, sir.

8 Q. They do that, they talk to you about a situation,
9 don't they?

10 A. Yes, sir.

11 Q. They tell you you're looking at a shooting on Buena
12 Vista and Linwood, right?

13 A. Yes, sir.

14 Q. We have an unsolved case?

15 A. Yes, sir.

16 Q. That we know you hang there?

17 A. Yes, sir.

18 Q. That it was a Saturday. Did they tell you what day
19 it was?

20 A. Yes, sir.

21 Q. Okay.

22 They tell you all kinds of things about
23 this case, don't they, sir?

24 A. Yes, sir.

25 Q. All right.

1 You're in custody at that time, I take
2 it, you've been physically arrested?

3 A. Could you repeat that?

4 Q. You'd been physically arrested?

5 A. Yes, sir.

6 Q. Some officers come put you in handcuffs?

7 A. Yes, sir.

8 Q. Transports you down to a station house?

9 A. Yes, sir.

10 Q. You are held there for a few days?

11 A. Yes, sir.

12 Q. You were probably in a bull pen area?

13 A. Yes, sir.

14 Q. With some other guys, right?

15 A. No, I was in a single cell.

16 Q. Single cell, okay, that's at the precinct?

17 A. Yes, sir.

18 Q. You're basically looking at bars and concrete,
19 aren't you?

20 A. Yes, sir.

21 Q. They got those tin toilets, don't even have a lid
22 on them?

23 A. Yes, sir.

24 Q. And you sit there at the precinct I imagine
25 probably three days, two days something like that?

1 A. Yeah, something like that.
2 Q. Okay, you're then arraigned, aren't you?
3 A. Yes, sir.
4 Q. At that time they set a certain bond that you are
5 unable to post, correct?
6 A. Yes, sir.
7 Q. You were then taken from the precinct to county
8 jail, right?
9 A. Yes, sir.
10 Q. You continue to sit there in the area with bars and
11 concrete, right?
12 A. Yes, sir.
13 Q. Everybody in uniform, right?
14 A. Yes, sir.
15 Q. Everybody's got badges?
16 A. Yes, sir.
17 Q. Weapons, or they might not have them in jail,
18 right?
19 A. What did you saw, sir?
20 Q. Strike that.
21 Your movement is controlled, isn't it?
22 A. Yes, sir.
23 Q. You eat when they tell you to?
24 A. Yes, sir.
25 Q. You eat what they tell you to?

1 A. Yes, sir.

2 Q. And at that time on November 17th, would it be fair
3 to say, you don't know when you're going to get
4 out, right?

5 A. Yes, sir.

6 Q. Is it fair to say that this was not fun being in
7 the precinct lock up or county jail, it's not very
8 fun, is it?

9 A. No, sir.

10 Q. And now when they come and talk with you, they give
11 you this information. They tell you that you know
12 you might just have some involvement in this case,
13 isn't that correct?

14 A. Yes, sir.

15 Q. They tell you, threaten you, whatever again warn
16 you that if you didn't give a statement they would
17 charge you with this murder, right?

18 A. Yes, sir.

19 Q. First degree murder?

20 A. Yes, sir.

21 Q. Okay.

22 This is now some two and a half months
23 after -- yeah, basically two and half months after
24 the shooting, right?

25 A. Yes, sir.

1 Q. At no time in that previous ten weeks do you bother
2 to tell anyone what you have told us here in court,
3 do you?

4 A. No, sir.

5 Q. Okay.

6 And it's not until the police threaten
7 you, tell you they think you're involved in this
8 and threaten you being charged with a first degree
9 murder that you make any kind of statement, right?

10 A. Yes, sir.

11 Q. Pardon?

12 A. Yes, sir.

13 Q. Okay.

14 And, in fact, sometime probably somebody
15 named Keith Bleach?

16 A. I don't know who that is.

17 Q. PJ?

18 A. Yes, sir.

19 Q. Do you know that person?

20 A. Yes, sir.

21 Q. Sometime within the first week after this homicide
22 you and Mr. Bleach are questioned in the hallway at
23 PJ's apartment, aren't you?

24 A. Yes, sir.

25 Q. Pardon?

1 A. Yes, sir.

2 Q. About this homicide?

3 A. Yes, sir.

4 Q. Within the first week, right?

5 A. Yes, sir.

6 Q. Out there on Buena Vista?

7 A. Yes, sir.

8 Q. Not two hundred feet from where this occurred,

9 right?

10 A. Yes, sir.

11 Q. And you say I don't know anything, right?

12 A. Yes, sir.

13 Q. And, in fact, you don't just tell them I don't know

14 anything and my name is Jovan Johnson, do you, sir?

15 A. No, sir.

16 Q. You say I don't know anything and my name is what?

17 A. What?

18 Q. You tell them I don't know anything and my name is

19 what?

20 A. I told them Jovan Johnson.

21 Q. You told them your name?

22 A. Yes, sir.

23 Q. Did the police ever follow up with you until you

24 got arrested?

25 A. No, sir.

1 Q. Are you still hanging out on Buena Vista?

2 A. No, sir.

3 Q. I mean, at the time in that two month period, sir.

4 That wasn't clear.

5 A. Probably once or twice.

6 Q. Okay.

7 And you do have a street name of JW?

8 A. Yes, sir.

9 Q. And you're well aware of Lavero Crooks name being
10 Country?

11 A. Yes, sir.

12 Q. Do you consider Lavero Crooks a friend of yours?

13 A. He all right.

14 Q. He's all right, okay, same way that Mr. Houston's
15 all right, right?

16 A. We talk when we see each other. That's about it.

17 Q. Okay.

18 So you have nothing and Lavero Crooks is
19 an okay guy as far as you're concerned?

20 A. Yeah, he okay guy.

21 Q. And you see him on Buena Vista when you're out
22 there rolling, would that be fair?

23 A. What you say now?

24 Q. You see Mr. Crooks when you're out there rolling on
25 Buena Vista, right, sir?

1 A. When I was, yeah.

2 Q. On a regular basis, right?

3 A. Yes, sir.

4 Q. Okay.

5 Now, you indicated at some point during
6 the course of this night and I apologize if I jump
7 around. Bear with me. But in a couple of
8 occasions Mr. Houston used swore words, right,
9 swear words?

10 A. Yes, sir.

11 Q. Apparently according to your testimony he calls Mr.
12 Thomas a bitch, correct?

13 A. Yes, sir.

14 Q. At some point later on he calls you a bitch, right?

15 A. Yes, sir.

16 Q. You don't ever hear Mr. Houston use any racial
17 remarks, do you?

18 A. No, sir.

19 Q. Okay, just swear words, right?

20 A. Yes, sir.

21 Q. You indicated that you had never seen the gun that
22 you saw that morning? You had never previously
23 seen that gun, right?

24 A. Yes, sir.

25 Q. Did you see where Mr. Houston got that gun from?

1 A. No, sir.

2 Q. When he goes into the field I assume he does go
3 into the field at some point?

4 A. Yes, sir.

5 Q. Does it appear that he has that gun out at the
6 time?

7 A. No, sir. I didn't know.

8 Q. Pardon me?

9 A. I said I didn't know until I heard the shots.

10 Q. Okay, okay. So you don't see it but you hear it,
11 right?

12 A. Yes, sir.

13 Q. Would it be fair to say at that time do you see Mr.
14 Houston talk with the man and leave the field to
15 get a gun, right?

16 A. No, sir.

17 Q. So in other words whatever happened in the field,
18 stayed in the field, right?

19 A. Yes, sir.

20 Q. You indicated that you and Mr. Crooks do sell drugs
21 out there, right?

22 A. Yes, sir.

23 Q. And that probably Mr. Houston too, right?

24 A. Yes, sir.

25 Q. You consider yourselves competitors with Mr.

1 Houston?

2 A. No, sir.

3 Q. But it would be true, sir, that on that particular
4 evening a guy calls out or you call out, I'm sorry,
5 to a guy that you recognize as some crack cocaine
6 user, right?

7 A. Yes, sir.

8 Q. You've seen the man a few times before?

9 A. Yes, sir.

10 Q. And you've dealt with him a few times before?

11 A. Yes, sir.

12 Q. Okay. He's been your customer?

13 A. Yes, sir.

14 Q. Okay.

15 And you see him, you recognize this man,
16 and I don't mean to be offensive, but this crack-
17 head, right?

18 A. Yes, sir.

19 Q. You call out to him what you need, right?

20 A. Yes, sir.

21 Q. Nothing unusual about that in that context, right?

22 A. No, sir.

23 Q. You might even do that to a strange passing
24 through, correct?

25 A. No, sir.

1 Q. No, all right, but you are out there rolling,
2 correct?

3 A. Yes, sir.

4 Q. And this guy you recognize as a potential repeat
5 customer?

6 A. Yes, sir.

7 Q. You try to induce him to buy from you?

8 A. Yes, sir.

9 Q. You'd rather make a sale than have somebody else
10 make it, right?

11 A. Yes, sir.

12 Q. That's why you, in fact, are sitting on that porch
13 so if anybody comes looking needy, you're there to
14 serve, right?

15 A. Yes, sir.

16 Q. All right.

17 Now, so Mr. Houston goes over, leaves you
18 and Powder, Christina Eshelman --

19 A. Yes, sir.

20 Q. -- on the porch.

21 Goes over to the field, correct?

22 A. Yes, sir.

23 Q. You don't follow, I take it, do you follow in order
24 to maybe make the sale or say hey this guy's mine
25 or something like that?

1 A. No, sir.
2 Q. You just stay on the porch, right?
3 A. Yes, sir.
4 Q. And then you start hearing words, right?
5 A. Yes, sir.
6 Q. Loud words?
7 A. Yes, sir.
8 Q. Aggressive words?
9 A. Yes, sir.
10 Q. And then you see, you then see Mr. Houston start
11 chasing this man; is that what you testified to?
12 A. Yes, sir.
13 Q. Around a tree, right?
14 A. Yes, sir.
15 Q. And you're way on the other side of the street on
16 the porch, correct, sir?
17 A. Yes, sir.
18 Q. And you hear first a shot or maybe two or three,
19 right?
20 A. Yes, sir.
21 Q. That person, Mr. Thomas falls, correct?
22 A. Yes, sir.
23 Q. And he falls onto his back, right?
24 A. Yes, sir.
25 Q. You don't ever see Mr. Houston turn him over, do

1 you?

2 A. No, sir.

3 Q. You don't ever see Mr. Houston riffling through the
4 man's pockets, do you?

5 A. No, sir.

6 MR. LANKFORD: May I approach the witness,

7 Your Honor?

8 THE COURT: Yes, you may.

9 BY MR. LANKFORD:

10 Q. I'm showing you People's Exhibits, Number 3 and 8.
11 Can you look first at three, sir. What is that a
12 photograph of?

13 A. The field.

14 Q. Is that looking basically from the porch area?

15 A. Yes, sir.

16 Q. It appears to be, okay.

17 Number 8, what is that, sir?

18 A. The same field.

19 Q. The same field, okay. And that's from a little
20 closer distance?

21 A. Yes, sir.

22 Q. Now these photographs -- and is the tree to the
23 right where you say you saw Mr. Houston chasing Mr.
24 Thomas, correct?

25 A. Yes, sir.

1 Q. And there are buildings depicted in the background,
2 right?

3 A. Yes, sir.

4 Q. All right, other apartment buildings, flats, that
5 kind of thing, correct?

6 A. Yes, sir.

7 Q. And do you see a bicycle in the foreground?

8 A. Yes, sir.

9 Q. Did you ever see Mr. Thomas actually drive that
10 bicycle up to where that photograph shows it?

11 A. No, sir.

12 Q. Do you ever see Mr. Thomas riding a bicycle at all?

13 A. No, sir.

14 Q. Did you ever see a second civilian with Mr. Thomas?

15 A. No, sir.

16 Q. With regards to these trees, sir, they pretty much
17 look the way they did the day in question, right,
18 other than there's daylight in these?

19 A. Yes, sir.

20 Q. These are pretty full trees, aren't they?

21 A. Yes, sir.

22 Q. And they come down, at least the one on the right
23 comes down, there is leaves on that almost to the
24 ground level, isn't there?

25 A. Yes, sir.

1 Q. Okay.

2 Including leaves that would be on the
3 side that you're looking from, right?

4 A. Yes, sir.

5 Q. They appear to be branches, okay. All right.

6 Now, the house that you're sitting in, is
7 that an abandoned house?

8 A. No, not at that point of time it wasn't.

9 Q. It may be now?

10 A. Yes, sir.

11 Q. Was that Lisa's porch?

12 A. Yes, sir.

13 Q. And you would come from the Zodiac?

14 A. Yes, sir.

15 Q. Motorcycle club?

16 A. Yes, sir.

17 Q. And I take it that -- how did you get to the
18 Zodiac?

19 A. Drove.

20 Q. You drove?

21 A. He drove.

22 Q. Michon drove. What did he drive?

23 A. The same car like a Tempo. I can't remember
24 exactly the kind of car it was.

25 Q. Some type of smaller Ford product?

1 A. Yes, sir.

2 Q. Did you see Mr. Houston driving that vehicle
3 before?

4 A. No, sir.

5 Q. Okay, the first time in that vehicle?

6 A. Yes, sir.

7 Q. Was Christina with you, Ms. Eshelman?

8 A. Yes, sir.

9 Q. What time did you get to the Zodiac?

10 A. About two.

11 Q. About two?

12 A. Yes, sir.

13 Q. What time did you leave the Zodiac?

14 A. About four or five, I'm not too sure.

15 Q. Okay, so you're there for two, three hours?

16 A. Yes, sir.

17 Q. During that period of time I assume that this
18 establishment sales alcohol?

19 A. Yes, sir.

20 Q. You drink it?

21 A. Yes, sir.

22 Q. How much did you have to drink?

23 A. Two Heinkens.

24 Q. Pardon me?

25 A. Two Heinkens.

1 Q. Two Heinkens?

2 A. Yes, sir.

3 Q. That's it?

4 A. Yes, sir.

5 Q. No shots?

6 A. No, sir.

7 Q. Do any drugs why you were there?

8 A. No, sir.

9 Q. Do any drugs on the way there or back with Mr.

10 Houston and Ms. Eshelman?

11 A. No, sir.

12 Q. Now, when you're out there to your knowledge, the
13 best of your knowledge, the only persons out there
14 other than Mr. Thomas are you, Mr. Houston and Ms.
15 Eshelman, correct?

16 A. Yes, sir.

17 Q. You don't ever see Lavero Crooks out there in a
18 parked vehicle, do you?

19 A. No, sir.

20 Q. And, again, this guy you said he's all right with
21 you. Sometimes acquaintances will sit there and
22 say hey how you doing --

23 THE COURT: Excuse me, I didn't get an
24 answer. You said this guy is all right with you.
25 I didn't hear a verbal answer.

1 BY MR. LANKFORD:

2 Q. And Lavero Crooks is all right with you?

3 A. Yes, sir.

4 Q. Okay, positive acquaintance?

5 A. It's not like that.

6 Q. You guys don't have any problems, right?

7 A. We don't have no problems.

8 Q. And you don't see him or any car out there that you
9 recognize is his, correct?

10 A. No, sir.

11 Q. Because had you recognized it, had you seen a car,
12 do you know what kind of car Lavero Crooks drove?

13 A. A Cutlass.

14 Q. An '84 Olds Cutlass, does that sound about right?

15 A. Yes, sir.

16 Q. What color?

17 A. Blue.

18 Q. Blue, okay.

19 Anything distinctive as far as wheels go?

20 A. He has some Ralley.

21 Q. What's a Ralley?

22 A. Deep dish hub caps.

23 Q. Okay, fancy wheel covers?

24 A. You can say that.

25 Q. Big rims.

1 A. Yes, sir.

2 Q. Mr. Houston is taller than you, right, sir?

3 A. Yes, sir.

4 Q. He's probably six two, maybe something like that?

5 A. Yes, sir.

6 Q. And fairly slim built, right?

7 A. Yes, sir.

8 Q. Lavero Crooks, the man that drives the blue car,
9 he's a big man, isn't he?

10 A. Yes, sir.

11 Q. And he's got to go at least 250, 280 something like
12 that, right?

13 A. Yes, sir.

14 Q. At any rate, nobody ever signals you from a car or
15 honks a horn or yells out the window, hey, you
16 know, Jovan how you doing; JW, how you doing.
17 Nobody ever does that, right?

18 A. No, sir.

19 Q. Okay.

20 Did Ms. Eshelman ever go and get in
21 anybody's car?

22 A. Who?

23 Q. Christina, Powder?

24 A. No, sir.

25 Q. Okay, she stayed on the porch with you the whole

1 time?

2 A. Yes, sir.

3 Q. You're not for sure what caused this swearing to
4 begin, right?

5 A. No, sir.

6 Q. Because you couldn't really hear it, right?

7 A. Yes, sir.

8 Q. You were far enough away that hearing is difficult,
9 would that be fair?

10 A. Yes, sir.

11 Q. And your testimony is that Mr. Houston is chasing
12 Mr. Thomas. I assume he would be behind Mr.
13 Thomas, would that be fair?

14 A. Yes, sir.

15 Q. Now, you've hung out there for a while. You know
16 many of the people, would that be true?

17 A. Yes, sir.

18 Q. Do you happen to know a person by the name of
19 Tenisha Watson that probably lives on Glendale?

20 A. No, sir.

21 Q. The other side of the field?

22 A. No, sir.

23 Q. While you were out there, you only saw the one guy
24 coming through the field?

25 A. Yes, sir.

1 Q. You never saw seven different guys coming through
2 the field all with black shirts and pants?

3 A. No, sir.

4 Q. You never head any guy say we got that, whatever
5 word you want to fill in?

6 A. No, sir.

7 Q. Do you know a guy by the name of Donte who went to
8 McKenzie High School who lives on Buena Vista?

9 A. No, sir.

10 Q. You don't know him?

11 A. No, sir.

12 Q. This is a clean shaven guy with a fade haircut and
13 gemmed glasses; do you know that man?

14 A. Would you repeat that; I can't hear you.

15 Q. He would be clean shaven with a fade haircut and
16 kind of gemmed, you know, fancy glasses; do you
17 know that?

18 A. No, sir.

19 Q. Are you familiar with anybody that drives a yellow
20 and possibly a black Thunderbird marked with some
21 decal that says Tweety Bird on it?

22 A. No, sir.

23 Q. You don't know anybody by that?

24 A. No, sir.

25 Q. All right.

1 You didn't see anybody out there, meaning
2 any vehicles or persons meeting that description
3 while you were observing this, right?

4 A. No, sir.

5 Q. By the way, you've known Mr. Houston for a while,
6 distinctive tatoo on the left eye?

7 A. Yes, sir.

8 Q. He's had that before September?

9 A. Yes, sir.

10 Q. All right.

11 Now, did you ever go over to that field
12 before or after the shooting to talk with Mr.
13 Thomas, I'm sorry, before the shooting let me
14 break that up?

15 A. No, sir.

16 Q. You did go over afterwards?

17 A. Yes, sir.

18 Q. You knew that a man was injured, correct?

19 A. Yes, sir.

20 Q. He's moving but he's clearly injured, isn't he?

21 A. Yes, sir.

22 Q. You come back you say he's dead, forget about it,
23 right?

24 A. I said he's dead.

25 Q. You said he's dead. Okay.

1 You don't say let's get out of here,
2 Christina, there may be trouble, you don't say
3 anything like that, sir?

4 A. No.

5 Q. Now, you indicated that Ms. Eshelman refused to
6 leave with you; is that true?

7 A. Leave with Sean.

8 Q. Well, you left with Sean, didn't you?

9 A. Sean told me to get in the car with a gun.

10 Q. Okay, and did you do so?

11 A. Yes, sir.

12 Q. Did Ms. Eshelman do so?

13 A. No, sir.

14 Q. Was she asked or told to get in the car?

15 A. She was asked.

16 Q. Pardon?

17 A. She was asked.

18 Q. By whom?

19 A. Sean.

20 Q. Did you ever say to her let's go also?

21 A. No, sir.

22 Q. Okay.

23 Do you know what -- could you identify
24 the type of weapon that you -- well, a weapon, did
25 you ever actually see one?

1 A. I didn't see it.

2 Q. So you wouldn't know what kind or anything like
3 that, right?

4 A. No, sir.

5 Q. So you leave with Mr. Houston and you're taken to
6 an address at Tuxedo and Dexter?

7 A. Yes, sir.

8 Q. Are you dropped off there?

9 A. Yes, sir.

10 Q. Does Mr. Houston come in with you?

11 A. He dropped me off at the bus stop on Dexter, not a
12 house.

13 Q. You go home?

14 A. Yes, sir.

15 Q. Do you ever return back to Buena Vista and meet up
16 with Ms. Eshelman an hour later?

17 A. No, sir.

18 Q. Did Ms. Eshelman ever come over to your residence
19 about an hour later?

20 A. No, sir.

21 Q. All right.

22 Now, how long do you figure you had been
23 on the porch before you first seen Mr. Thomas?

24 A. About a half an hour or so.

25 Q. About a half an hour. And with regards to -- how

1 long do you figure Mr. Thomas was out there from
2 the time you first saw him until the time that you
3 left?

4 A. I don't know.

5 Q. Was he out there when you would ride back from the
6 Zodiac?

7 A. No, sir.

8 Q. And it would be fair, and I ask this specific
9 question, you felt that you might well be charged
10 with a first degree murder, right, sir?

11 A. No, sir.

12 Q. You didn't feel that?

13 A. No, sir.

14 Q. Okay, it's probably what the police said, right?

15 A. Telling me it was for a witness.

16 Q. Pardon?

17 A. Telling me it was for a witness.

18 Q. I still didn't catch what he said.

19 THE COURT: They told me it was for a
20 witness.

21 MR. LANKFORD: Okay.

22 BY MR. LANKFORD:

23 Q. Now, we'll do this again then. Do you recall
24 testifying across the street on January the 29th of
25 this year?

1 A. Yes, sir.

2 Q. At that time there was a judge, correct?

3 A. Yes, sir.

4 Q. Somebody other than this judge, right?

5 A. Yes, sir.

6 Q. There were two lawyers, correct?

7 A. Yes, sir.

8 Q. Different than Mr. Hassinger and myself, correct?

9 A. Yes.

10 Q. A white woman and a black male, right?

11 A. Yes, sir.

12 Q. Okay, page 32, oh, I'm sorry. You were sworn to
13 tell the truth the whole truth and nothing but the
14 truth just like today?

15 A. Yes, sir.

16 Q. Both lawyers got to ask you questions?

17 A. Yes, sir.

18 Q. Do you recall this on page 32, lines 14 through
19 seventeen;

20 "Question: And did they threaten you if
21 you didn't give a statement that they would
22 charge you with this murder?

23 Answer: Yes, sir."

24 Do you recall that question and answer?

25 A. Yes, sir.

1 Q. Okay.

2 But at any rate I'm going to do the
3 digression. You did feel that you might be charged
4 in connection with this homicide in some capacity,
5 didn't you?

6 A. Yes, sir.

7 Q. And you took them seriously about that, right?

8 A. Yes, sir.

9 Q. You met Ms. Eshelman probably last summer also?

10 A. Who?

11 Q. Powder, Christina?

12 A. Yes, sir.

13 Q. Sir, today you said that at the Zodiac you had two
14 beers, two Heinkens, correct?

15 A. Yes, sir.

16 Q. You order beer, right?

17 A. Yes, sir.

18 Q. Good tasting stuff, correct?

19 A. Yes, sir.

20 Q. Okay.

21 Would you describe two beers in two hours
22 as fairly heavily?

23 A. Pardon me?

24 Q. Would you describe that as a fair amount of
25 drinking, sir?

1 A. Yes, sir.

2 Q. Okay, all right.

3 So you say that you drank a fair amount
4 and that would be two beers?

5 A. Yes, sir.

6 Q. All right. I might have asked that, sorry, it's
7 late in the day, but you have been to that
8 particular place that you pointed out on the
9 photographs a number of times, haven't you, sir?

10 A. Yes, sir.

11 Q. You're very familiar with the area?

12 A. Yes, sir.

13 Q. And people tend to frequent it?

14 A. Yes, sir.

15 Q. Many of the people tend to live there?

16 A. Yes, sir.

17 Q. All right, one moment please.

18 There's been a person here today earlier
19 that testified regarding this chart. But this
20 number 3 that you described, the one that was fully
21 grown, branches down almost to the ground. That's
22 in a vacant lot, right, sir?

23 A. Yes, sir.

24 Q. And let's say just for a moment that there had been
25 houses on the south side once upon a time on Buena

1 Vista just like the ones on the north side, okay?

2 A. Yes, sir.

3 Q. That tree would in the back would have been in the
4 backyard of that house, right?

5 A. Yes, sir.

6 Q. Because it would be pretty close to the alley on
7 that side, isn't it?

8 A. Yes, sir.

9 Q. You indicated that you don't have any commissions
10 for fraud, theft, or dishonesty in the last ten
11 years punishable by more than a year?

12 A. No, sir.

13 Q. You're used to working outside obviously at five
14 o'clock, right?

15 A. Yes, sir.

16 Q. And there are some street lights, correct?

17 A. Yes, sir.

18 Q. And there may even be a street light directly,
19 right on the street, correct, sir?

20 A. Yes, sir.

21 Q. Did the incident that you described has taken place
22 would have occurred on the other side of that light
23 away from where you are, right?

24 A. Yes, sir.

25 Q. You've described what, five or six shots altogether

1 is that basically correct?

2 A. Yes, sir.

3 Q. Okay.

4 And now from the time Sean comes, Mr.

5 Houston, excuse me, comes back and says get in the
6 car, from the time of the shooting until you get
7 into the get car and actually leave the area, how
8 long is that?

9 A. After the shoot?

10 Q. Yes.

11 A. About five seconds, five, ten seconds. About five,
12 ten seconds.

13 Q. I mean from the time of the shooting, what you're
14 saying is Mr. Houston has to come out of the field,
15 onto the porch, right?

16 A. Yes, sir.

17 Q. Has to yell at you, correct?

18 A. I would say probably five minutes.

19 Q. Five minutes, okay, as opposed to five seconds,
20 right?

21 A. Yeah.

22 Q. During that five minute period of time after shots
23 you start seeing house lights go on and people
24 looking out their windows and dogs barking and that
25 kind of thing?

1 A. No, sir.

2 Q. No, sir, okay.

3 At some point that you've described as
4 the shootings, once the man had fallen on his back,
5 you indicated that Mr. Houston fired some more
6 rounds, right?

7 A. Yes, sir.

8 Q. Do you think the way you described it is he's
9 standing right over the guy, correct?

10 A. Yes, sir.

11 Q. Right over him, right?

12 A. Yes, sir.

13 Q. Okay, what I want you to do --

14 MR. LANKFORD: May I approach, Your
15 Honor?

16 THE COURT: Yes, go ahead.

17 BY MR. LANKFORD:

18 Q. I'd like you to tell me when to stop when you
19 figure the barrel of the gun was to Mr. Thomas?

20 A. Right there.

21 Q. Right here?

22 A. Yeah.

23 Q. My foot is on this first step, right?

24 A. Yes, sir.

25 Q. You're on the second step, right?

1 A. Yes, sir.

2 Q. You were probably about that far apart, right,
3 sir?

4 A. Yes, sir.

5 Q. Indicating 12 to 15 inches more or less?

6 THE COURT: Mr. Prosecutor, do you agree?

7 Did you see his hands? He was hard to see. Try it
8 again, counsel.

9 BY MR. LANKFORD:

10 Q. It's hard to keep them exact as I walk forward.

11 You indicate right here, that's this close, right?

12 A. Yes, sir.

13 Q. Now, the distance between my knee and your knee was
14 approximately 15 -- about a couple inches back, 15,
15 eighteen inches?

16 A. Right there.

17 Q. Couple feet.

18 THE COURT: Okay, thank you.

19 BY MR. LANKFORD:

20 Q. All right. When you went over to see Mr. Thomas
21 and observed his condition, did you go in his
22 pocket?

23 A. No, sir.

24 Q. You didn't search his pockets for any money?

25 A. No, sir.

1 Q. Did you see Mr. Houston search for any money
2 either, did you?

3 A. No, sir.

4 Q. But this man indicated that he wanted to make a
5 buy, correct?

6 A. Yes, sir.

7 Q. Powder is a regular in the neighborhood, sir?

8 A. What?

9 Q. And you said Powder, she's a regular in the
10 neighborhood?

11 A. Yes.

12 Q. You always see her on Buena Vista?

13 A. Yes, sir.

14 Q. Do you have any relatives that live over there on
15 Buena Vista?

16 A. Yes, sir.

17 MR. HASSINGER: Could I find out what why
18 counsel -- relevance.

19 MR. LANKFORD: I'll withdraw the
20 question. He's established familiarity with the
21 area. Thank you.

22 MR. LANKFORD: One second, I think that's
23 about it.

24 BY MR. LANKFORD:

25 Q. The statement that you-- the man that you made a

1 statement to, that man over there?

2 A. Yes, sir.

3 Q. Do you know his name?

4 A. Sergeant Danny Marshall.

5 MR. LANKFORD: Nothing further.

6 THE COURT: Go ahead, counsel.

7 MR. HASSINGER: Thank you, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. HASSINGER:

10 Q. Mr. Johnson, are you coming into court today and
11 lying on Mr. Houston and want to set him up on a
12 gun case?

13 A. No, sir.

14 Q. Did you actually see who murdered that man on
15 September 6th?

16 A. Yes, sir.

17 Q. And who would that be?

18 A. Sean.

19 Q. He was your friend back on that date?

20 A. Yes, sir.

21 MR. HASSINGER: Thank you.

22 THE COURT: Recross-Examination of what
23 has been pointed out on redirect only.

24 MR. LANKFORD: No, thank you, Your Honor.

25 THE COURT: Go ahead, counsel.

1 MR. HASSINGER: The People call Officer
2 Bastianelli.

3 THE CLERK: Do you solemnly swear or
4 affirm that the testimony you're about to give
5 before the court to be the truth under the pains of
6 penalty of perjury?

7 MR. BASTIANELLI: Yes, I do.

8 THE CLERK: Thank you.

9 THE COURT: Please be seated right there
10 and we're going to ask you to pull the microphone
11 around to your mouth and speak right into it.

12 Counsel, whenever you're ready.

13 MR. HASSINGER: Thank you, Your Honor.

14 MICHAEL BASTIANELLI

15 was thereupon called by the People as a witness
16 herein, and having been duly sworn, was examined
17 and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. HASSINGER:

20 Q. Good afternoon, sir, would you please introduce
21 yourself to our jury?

22 A. My name is Officer Michael Bastianelli.

23 Q. How are you employed, sir?

24 A. I'm employed with the City of Detroit as a police
25 officer.

1 Q. I'd like to take you back to September 6th of last
2 year 2002 somewhere around six, seven in the a.m.,
3 were you working, sir, back on that date around
4 that time?

5 A. Yes, I was.

6 Q. And did you get some type of assignment that
7 concerned going to a hospital?

8 A. Yes, I did.

9 Q. What was your assignment?

10 A. I was working on a patrol unit. I was backing up a
11 primary unit on the shooting run.

12 Q. And who requested you to go to the hospital?

13 A. We pretty much volunteered for that.

14 Q. Okay, and which hospital did you go to, sir?

15 A. We went to Henry Ford Hospital.

16 Q. And were you aware at the time that a victim by the
17 name of Carlton Thomas have been conveyed to Henry
18 Ford Hospital?

19 A. Yes, I had.

20 Q. You personally went there?

21 A. To the hospital?

22 Q. Yes.

23 A. Yes, I did.

24 Q. Did you have a partner?

25 A. Yes, I did.

1 Q. What is your partner's name?

2 A. Daniel Sitarski.

3 Q. While you were at the hospital, did you collect
4 clothing that was taken from the victim in this
5 particular case?

6 A. Yes, we did.

7 Q. And can you tell us what clothing were collected
8 from the victim Carlton Thomas?

9 A. For accuracy I'd have to refer to my PCR.

10 Q. Would that help refresh your memory?

11 A. Yes, it would.

12 Q. Please tell us.

13 A. We placed on evidence -- do you want me to say the
14 evidence tag number?

15 Q. Please.

16 A. On evidence tag number 738872 one blue coat, one
17 black pair of underwear, one pair of black shorts
18 with a brown belt, two white socks, one green shirt
19 and two black shoes.

20 On evidence tag 738873, we put one set of
21 miscellaneous keys, one brush, one cigarette
22 lighter, and one half pint of Gilbey's gin.

23 Q. And to best of your knowledge that's the things
24 that were on the complainant when he was conveyed
25 to the hospital?

1 A. That's correct.

2 Q. And all that was placed on evidence?

3 A. Yes, sir.

4 MR. HASSINGER: I have no further
5 questions of the witness.

6 THE COURT: Cross-examination.

7 MR. LANKFORD: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. LANKFORD:

10 Q. Good afternoon Officer?

11 A. Good afternoon.

12 Q. You simply go and retrieve these clothes that might
13 be of some value later on, that's basically the
14 idea?

15 A. Pretty much, sir.

16 Q. You found a number of items such as clothing?

17 A. I'm sorry?

18 Q. You found a number of items, clothing, keys?

19 A. Yeah, they were turned over to us by the hospital
20 staff.

21 Q. Was any currency turned over to you?

22 A. No.

23 Q. Any form of identification from Mr. Thomas?

24 A. No, sir.

25 MR. LANKFORD: Nothing else. Thank you.

1 THE COURT: Redirect?

2 MR. HASSINGER: None, Your Honor.

3 THE COURT: We thank and excuse the
4 witness. You're free to go.

5 Are you ready to call your next witness?

6 MR. HASSINGER: Yes, we'd like to call
7 Officer Melvin Williams.

8 THE CLERK: Raise your right hand,
9 please. Do you solemnly swear or affirm that the
10 testimony you're about to give in the matter now
11 pending before the court to be the truth under the
12 pains of penalty of perjury?

13 MR. WILLIAMS: Yes, ma'am.

14 THE COURT: Please be seated right there
15 and we're going to ask you to pull that microphone
16 back around to your mouth and speak right into it.
17 Counsel, whenever you're ready.

18 MR. HASSINGER: Thank you, Your Honor

19 MELVIN WILLIAMS

20 was thereupon called as a witness by the People
21 herein and having been duly sworn, was examined and
22 testified as follows:

23 DIRECT EXAMINATION

24 BY MR. HASSINGER:

25 Q. Good afternoon, sir, would you please state your

1 name?

2 A. Melvin Williams.

3 Q. How are you employed, sir?

4 A. Through the City of Detroit Police Department.

5 Q. How long have you been a police officer?

6 A. Three and a half years.

7 Q. Sir, I'd like to take you back to September 6th,
8 2002, an early Friday morning some where around
9 5:30 or six 50 in a.m., sir, did you get some type
10 of run back on that day around that time?

11 A. Yes, sir, I got a police run on a shots fired in
12 the area of Buena Vista and Linwood.

13 Q. Do you know what precinct that is, sir?

14 A. The Tenth Precinct.

15 Q. Is the Tenth Precinct where you normally work?

16 A. Yes.

17 Q. How long have you been assigned to the Tenth
18 Precinct?

19 A. Two and a half years.

20 Q. Did you go over to Linwood, west Buena Vista area?

21 A. Yes, I did.

22 Q. And are you the first officer that arrives at
23 scene.

24 A. Yes, sir.

25 Q. Can you tell us approximately what time it was when

1 you got there?

2 A. I believe it was just before six a.m., maybe
3 between 5:50 and six a.m., maybe 5:55.

4 Q. Can you tell us what the lighting conditions were
5 at that time?

6 A. It was dawn just breaking through so.

7 Q. And when you get over there where do you direct
8 your attention to?

9 A. I was coming eastbound on Buena Vista Street, and I
10 looked to my right which would be the south corner
11 of Buena Vista and Linwood and that's where my
12 direction of sight was at, sir.

13 Q. Did you have a partner?

14 A. Yes, I did.

15 Q. What was your partner's name?

16 A. He was driving at the time so.

17 THE COURT: No, he said what was his name.

18 THE WITNESS: I'm sorry, what's his name?

19 BY MR. HASSINGER:

20 Q. Yes.

21 A. Fred McIntyre.

22 Q. So you're coming eastbound on Buena Vista; is that
23 correct?

24 A. Yes, sir.

25 Q. At some point do you stop; does your vehicle come

1 to a stop?

2 A. Yes, sir.

3 Q. Where do you stop at?

4 A. At the corner of Buena Vista and Linwood prior to.

5 Q. And what do you do?

6 A. I noticed lying in the field what appeared to be a
7 body. I noticed clothing. I commanded my partner
8 to bring the vehicle as I jumped out of the car and
9 ran over to the scene.

10 Q. Now, you're saying from sitting in your police
11 vehicle out on Buena Vista, you were able to see a
12 body laying in that field there south of Buena
13 Vista?

14 A. Yes, sir.

15 Q. Okay.

16 Do you recall there being a couple of
17 trees in that area?

18 A. Well, yeah, yeah, I do recall that toward the alley
19 which the tree would actually have been behind the
20 body.

21 Q. Okay.

22 But the tree, is it fair to say the trees
23 are towards the back of that lot?

24 A. Yes, directly toward the back of that lot.

25 Q. Okay.

1 But you didn't have any trouble seeing
2 that body that was laying back there in the front
3 of the tree?

4 A. There was no obstruction of my view to that body.

5 Q. Okay.

6 That's what I made clear that you were
7 easily able to make that observation?

8 A. Yeah, there was no obstruction at all. The tree
9 was to the back of that body.

10 Q. Okay.

11 And, in fact, you saw that and you asked
12 your partner to stop the vehicle so you could go
13 investigate?

14 A. Yes, sir.

15 Q. What do you do?

16 A. I immediately jump out of my squad car. I grabbed
17 my radio. Run over toward the body and I confirmed
18 there was a body first.

19 Q. Okay.

20 Was there anybody else out there around
21 that body? Were there any civilians out there in
22 that lot?

23 A. No.

24 Q. Were there any other civilians in that general
25 area along Buena Vista in front of that lot?

1 A. No.

2 Q. So you run over to check the body; is that correct?

3 A. Yes, sir.

4 Q. Tell the jury what observations you make?

5 A. Well, I immediately notice what appeared to be a
6 gun shot wound to the mouth or some type of wound
7 to the mouth. It was almost a perfect hole in the
8 middle of his mouth. His eyes were rolled to the
9 back of his head.

10 There was a gun shot wound or what
11 appeared to be a gun shot wound to the temple. He
12 was laying there and I believe he had his left leg
13 up and it was still slightly swaying back and forth
14 back. He tried to talk to me and tell me what his
15 name was.

16 Q. Was he having trouble talking?

17 A. Very much.

18 Q. Were you able to communicate with him?

19 A. Just for a second. I got a name out of him. And he
20 just said, you know, he shot me, he shot me.

21 Q. Do you recall what name -- did he give you his name
22 or the name of the shooter, what was this?

23 A. Well, I couldn't decipher it. I asked him what his
24 name was, but I couldn't decipher whether or not he
25 was talking about the shooter or anything. When I

1 asked him he said his name was -- he just said
2 Carlton Thomas.

3 Q. And you said there was a shot it looked like to the
4 temple. Was his mouth area also injured?

5 A. Yes.

6 Q. Did it appear to be?

7 A. Yes, it did.

8 Q. Okay.

9 At some time do you call EMS or does your
10 partner call EMS?

11 A. Upon me standing over a body is when I radioed for
12 my dispatch to make sure that the EMS was rolling.
13 Subsequently the EMS appeared. You know, they were
14 just right there, so I guess they got the run at
15 the same time we got the run and they were pulling
16 up.

17 Q. Is it fair to say they're pulling up seconds after
18 you pulled up?

19 A. Seconds later.

20 Q. Okay.

21 A. Seconds later after I was standing over the body.

22 Q. And at that point do you turn Mr. Thomas over to
23 the EMS people so they can do whatever they need to
24 do?

25 A. Yes.

1 Q. To the best of your recollection, was Mr. Thomas
2 fully clothed?

3 A. At the time, yes.

4 Q. Was there anything covering his face?

5 A. No.

6 Q. Do you know where EMS took Mr. Thomas to?

7 A. I'm sorry at that point I conducted a canvas of the
8 area looking for a perpetrator or a witness.

9 Q. So you start looking around the neighborhood trying
10 to find witnesses or gain information about the
11 case?

12 A. Yes, we had a supervisor who instructed another
13 unit to convey the EMS to the hospital.

14 Q. So basically at this point is it fair to say you're
15 looking for anybody out there who was might have
16 information about what happened?

17 A. Yes, sir.

18 Q. Do you recall anybody you talked to?

19 A. Not by name. I radioed, I called radio again to
20 dispatch and we got an ID of the address where the
21 call came from, and I made that location with a
22 supervisor, a location with a supervisor to ask
23 exactly what did they see or hear.

24 Q. Do you know what location that was where the call
25 came from?

1 A. Not offhand, sir.

2 Q. If I showed you a report that appears to be made by
3 on that day would that refresh your memory?

4 A. Yes, sir.

5 MR. HASSINGER: May I approach the
6 witness, Your Honor?

7 THE COURT: You may.

8 BY MR. HASSINGER:

9 Q. And who did you talk to?

10 A. It was Sherita Johnson. She didn't live at the
11 address but she was at the address where the call
12 came from. She was the caller.

13 Q. Can you tell us the names of people that you would
14 have talked to back on that date trying to gain
15 information about this case?

16 A. All I can say is Sherita Johnson, Derrick McGee who
17 was a resident of that building and John Watson.

18 Q. Can you tell us the address of the building where
19 the call came from?

20 A. 2663 West Buena Vista.

21 Q. Now, I don't want to go into whatever these people
22 told you. I just want to know did any of these
23 people claim to you that they witnessed this crime?

24 A. No.

25 Q. You got all these people's names and information;

1 is that correct?

2 A. Yes, sir.

3 Q. What did you do next?

4 A. We continued our search of the area looking for
5 evidence. At some point we had to wait for the
6 homicide investigator to get over there and we
7 turned the investigation over to the homicide
8 detective.

9 Q. Were you in charge protecting the scene until the
10 homicide officers got there?

11 A. I'm sorry, yes, sir. We preserved the scene, the
12 area where he was found laying in. So we kept that
13 area free of contamination before I turned it over
14 to the homicide investigator.

15 Q. And you've been working the Tenth Precinct at this
16 point for about two and a half years; is that what
17 you told us?

18 A. Yes, sir.

19 Q. Can you tell the jury in general about this area on
20 Buena Vista near Linwood; is this a high priority
21 area for anything?

22 A. There's a lot of drugs over in that area, and so
23 over in that area the officers and myself dealing
24 with that area, you know, most the time when you
25 come in contact with somebody over that area, it's

1 not unlikely that a priority is called out, as far
2 as somebody producing a weapon or some other type
3 of dangerous object where an officer feels he need
4 assistance from someone else.

5 But the answer to your question, it's a
6 high drug trafficking area.

7 Q. Do you have your guard up when you go through that
8 area?

9 A. All the time.

10 MR. HASSINGER: Judge, I'd like to ask the
11 witness to have permission to take a look at the
12 exhibit.

13 THE COURT: All right.

14 BY MR. HASSINGER:

15 Q. Officer, can you please step down for a second.
16 I'd like you to look at what's already been
17 introduced as People's Number 2 here. It's shows
18 Buena Vista running this way. We have Linwood over
19 here. North is this way on this, okay?

20 A. Okay.

21 Q. So just to get your bearings. There's been an area
22 where the evidence technician has testified that
23 there was there blood in front of a tree. Can you
24 indicate for the jury, and you can use my pen to
25 point, where Mr. Thomas was when you found him on

1 this map.

2 THE COURT: And kindly stand to the side
3 so that the jurors can see where you're pointing.

4 THE WITNESS: I remember finding Mr.
5 Thomas right here.

6 BY MR. HASSINGER:

7 Q. Are you were talking about -- now, you said you
8 were going down Buena Vista and you could see his
9 body in front of the tree, correct?

10 A. Yes, our scout car was riding up Buena Vista this
11 way. And you could see his body laying in this area
12 here. And like I said, the tree was toward the
13 back next to the alley.

14 Q. Okay.

15 Now the evidence technician has marked
16 the trees. See where it sees right there, tree
17 right here?

18 A. Okay.

19 Q. See this circle represents the trunk. Now, does
20 that help you position where the body was?

21 A. Yes.

22 Q. And where was Mr. Thomas?

23 A. Laying right here.

24 Q. Thank you, sir, why don't you resume your seat.

25 Did you yourself recover it?

1 THE COURT: You know what, fix it. You
2 don't know how to fix it but my officer does.
3 After it's been moved enough times it gets loose
4 and it tries to assault whoever's sitting in the
5 chair. Okay, go ahead.

6 MR. HASSINGER: Thank you, Judge.

7 BY MR. HASSINGER:

8 Q. Did you personally recover any other evidence at
9 that location?

10 A. No, I didn't.

11 MR. HASSINGER: Thank you, Your Honor.

12 THE COURT: Cross-examination.

13 MR. LANKFORD: Thank you.

14 CROSS-EXAMINATION

15 BY MR. LANKFORD:

16 Q. Good afternoon, Officer Williams?

17 A. Good afternoon.

18 Q. Sir, you had changed your eastbound Buena Vista,
19 correct?

20 A. Yes, sir.

21 Q. And approaching heading towards Linwood?

22 A. Yes, sir.

23 Q. And you're the passenger, right?

24 A. Yes, sir.

25 Q. Your side is facing south?

1 A. Yes, sir.

2 Q. So you're on the curb side facing south?

3 A. Yes, sir, I was facing south. I would have been
4 looking south.

5 Q. Correct, okay.

6 And at some point you indicated that you
7 didn't have any trouble seeing, you saw something
8 out there that got your attention, right?

9 A. Yes, sir.

10 Q. You don't have any trouble seeing that, right?

11 A. No, I didn't.

12 Q. Okay.

13 Because whatever, say disrepair the
14 things were, certainly you were able to from
15 probably 60 feet away see an object out there,
16 correct?

17 A. Correct.

18 Q. So it wasn't like weeds were up to your waist or
19 your groin or anything, right?

20 A. Correct.

21 Q. Okay. Now, also you pulled down --

22 MR. LANKFORD: I ask permission to have
23 him step down if he needs to.

24 THE COURT: Step down again if you'd like.

25 BY MR. LANKFORD:

1 Q. I'm going to direct a couple of questions, Officer,
2 would you look towards the lower right where it
3 says pile of debris?

4 A. Right.

5 Q. And, in fact, would that be -- I'm showing you a
6 couple of photographs, sir. Is that pile of debris
7 shown in these photographs People's Exhibits Number
8 4, 5 and 9?

9 A. Yes, this is the pile debris that was out there.

10 Q. A pretty nice little pile, right?

11 A. Right.

12 Q. And this photograph Number 3, that shows a bicycle,
13 sir?

14 A. Yes.

15 Q. And as you were going down Buena Vista eastbound
16 you would have passed the pile of debris first and
17 then come up to where this bike is depicted,
18 correct?

19 A. Right.

20 Q. So it's fair to say that you would pass the pile of
21 debris when you noticed it?

22 A. Right.

23 Q. Heading east on that you would look where the
24 little light, maybe sunshine which is actually a
25 light pole?

1 A. Right.

2 Q. You must have been about there, right, when you
3 first notice things?

4 A. To be honest, I didn't actually remember the light
5 pole being there, so maybe I was a little bit
6 further than it.

7 Q. Okay.

8 My point though is certainly you were
9 passed the pile of debris, correct?

10 A. I was definitely passed the pile of debris, but I
11 was no where even close to the alley.

12 Q. Okay.

13 And one moment, please. Okay. You may
14 resume your seat if you would please, Officer.

15 Thank you.

16 MR. LANKFORD: May I approach the
17 witness?

18 THE COURT: Yes.

19 BY MR. LANKFORD:

20 Q. I'm showing you People's Exhibit Number 4 which I
21 may have shown you. Does that look like the area
22 looking from the field to the houses?

23 A. Yes.

24 Q. And there appears to be a semi-marked or supposedly
25 unmarked police car?

1 A. Yes.

2 Q. Now, that however is pointed west as opposed to the
3 direction you were traveling, correct?

4 A. Correct.

5 Q. And that pile of debris is depicted in there,
6 correct?

7 A. Correct.

8 Q. Now, east of the location -- you were east of the
9 debris when you saw the body, right, or something
10 that caught your attention?

11 A. Correct.

12 Q. In that photograph if you are looking north to the
13 west or the left of the pile of debris, it appears
14 to be some fairly heavy weeds, correct, just at the
15 curb?

16 A. Next to the fence?

17 Q. Yes.

18 A. Okay.

19 Q. Is that right?

20 A. Yes.

21 Q. And that is not the location from which you were
22 able to see the body as you came down Buena Vista?

23 A. Correct.

24 Q. All right, thank you.

25 Sir, you did indicate he had damage to

1 his mouth?

2 A. Yes.

3 Q. So you're not even able to say or really determine
4 what he was saying, would that be fair?

5 A. I made his name out.

6 Q. Okay, and that was pretty much it?

7 A. Yes.

8 Q. So certainly he was incapable, appeared to be
9 incapable of giving you any description, right,
10 sir?

11 A. I didn't get a description from him.

12 Q. And then clearly he's been shot and he's in bad
13 shape, right?

14 A. Yes.

15 Q. Okay.

16 Now at any time though, I mean, the
17 person was still swaying back and forth kind of
18 thing?

19 A. His left leg, I believe it was his left leg.

20 Q. Right.

21 A. But he was laying down and it was swaying back and
22 forth, so it was obvious to me he was still alive.

23 Q. Conscious, correct, sir?

24 A. Yes.

25 Q. Did he make any attempt to put his hands to point

1 to his eyes, the area of his eyes?

2 A. Not to my recollection, no.

3 Q. And you did obviously, you've testified that you
4 canvased the area and talked to Sherita Johnson,
5 Derrick McGee, and John Watson, correct?

6 A. Yes, sir.

7 Q. Can I see --

8 THE COURT: Counsel, we're going to have
9 to stop. It's almost 4:00 o'clock.

10 MR. LANKFORD: Judge, I can wrap up in two
11 minutes.

12 THE COURT: Okay, go ahead.

13 MR. LANKFORD: May I approach?

14 THE COURT: Yes.

15 BY MR. LANKFORD:

16 Q. John Watson, is one of the names, John Watson?

17 A. Yes, sir.

18 Q. What is the address on that, they blacked mine out?

19 A. 2638 Glendale.

20 Q. 2638 Glendale, okay.

21 And you seen a building here 2638 Buena
22 Vista, correct, on this diagram, sir?

23 A. Do you mind if I step over here?

24 THE COURT: Please do. Now remember,
25 counsel, you said you were going to wrap it up.

We're going to have to go through redirect anyway.

Go ahead.

THE WITNESS: It's not noted on here.

BY MR. LANKFORD:

Q. No, no, no, I'm saying it shows 2638 Buena Vista, correct?

A. Yes.

Q. Glendale's the next street south?

A. Yes.

Q. 2638, if I continued through that alley onto Glendale, 2638 Glendale would be an address that--

THE COURT: Think about it for tomorrow.

MR. LANKFORD: Okay, no problem.

THE COURT: I'm going to caution jurors you may not discuss this matter among yourselves nor with anyone else. I'm going to ask you to go home and have a good dinner. Be back here tomorrow morning promptly at 9:00.

Now, I'm going to be here at 9:00 and I know defense counsel's going to be here at 9:00 since he's already given us one check.

I know the prosecutor doesn't want to have to give us a check, so if you all can be here on time we'll get this case concluded as efficiently as possible. We'll rise for the day.

Everyone rise. The jurors are free to be back at 9:00 o'clock tomorrow.

(Jury exits courtroom 4:10 p.m.)

THE COURT: You may be seated. Okay, see you tomorrow morning at 9:00 o'clock unless you have something else you want to bring up. Was there something you wanted to bring up?

MR. LANKFORD: Yes.

THE COURT: We got to go quickly.

MR. LANKFORD: I did, yes.

THE COURT: We got a security problem
after 4:00 o'clock, so let's do it.

MR. LANKFORD: Judge, this is real brief.

Basically I've asked for assistance regarding a witness who I had no information on other than she had a statement taken by the police. That order was signed. The police had gone out I understand that they have attempted to serve her.

THE COURT: That's the same witness that I served; isn't that somebody I issued a warrant for?

MR. LANKFORD: You didn't issue a warrant,
just a subpoena, a subpoena.

THE COURT: Okay, well, if they can find her -- you want a bench warrant?

1 MR. LANKFORD: I want a warrant for her.

2 THE COURT: Have they been able to find
3 her at all?

4 MR. HASSINGER: They have found her,
5 Judge, but she refuses to come to the door.

6 THE COURT: Well, you know what you have
7 to do, right?

8 MR. HASSINGER: We need a warrant first.

9 THE COURT: You got a warrant so give my
10 clerk the information. Take him back, get to my
11 clerk and give her the information so I can sign it
12 before we leave here. Talk to my clerk.

13 MR. LANKFORD: Okay.

14 THE COURT: Give her the information so
15 she can get the warrant and I can get out of here.

16 Please be back tomorrow at 9:00.

17 THE WITNESS: Yes, ma'am, promptly.

18 THE COURT: Okay.

19 MR. HASSINGER: Judge, may I leave my
20 materials in the courtroom?

21 THE COURT: I don't have a problem with it
22 but I don't know what the other people do. I don't
23 know if they move things around. Ask the clerk.

24 MR. HASSINGER: But I have your permission
25 to do that?

1 THE COURT: You have my permission.

2 MR. HASSINGER: Okay, you're the boss.

3 THE COURT: I'm just concerned about we
4 can't be responsible for it.

5 MR. HASSINGER: I understand.

6 THE COURT: Okay.

7 (Proceedings concluded.)

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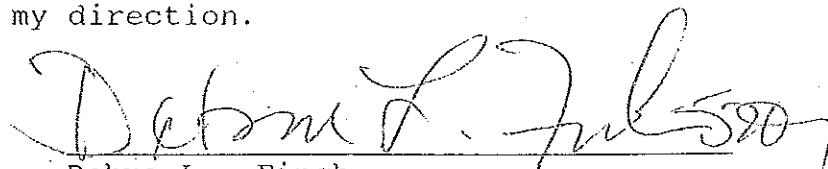
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3 R E P O R T E R' S C E R T I F I C A T E

4

5

6 I do hereby certify that I have
7 recorded stenographically the proceedings had and
8 testimony taken in the above-entitled matter at the time
9 and place hereinbefore set forth, and that the foregoing
10 is a full, true and correct transcript of the proceedings
11 had in the above-entitled matter; and I do further
12 certify that the foregoing transcript has been prepared
13 by me or under my direction.

14 
15 Debra L. Finch
16 Certified Shorthand Reporter - 5702

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Dated: August 9, 2003

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